Saving the Republic: How the Founders Warned, the Constitution Weakened, and the People Must Respond

Can the Republic Be Saved? Three Voices of Restoration: Realist, Reformer, and Moralist

An original compilation of historical analysis, political commentary, and constitutional reflection authored by Jeff A. Pierson.

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Introduction

The first nine pages of *Saving the Republic* are intended to do more than provide historical background. They establish the central thesis of this work: that the American republic was never guaranteed by structure alone, but was always dependent on the continued virtue, vigilance, and restraint of its people. The Constitution, though brilliantly designed, was never self-executing. It rested on a conditional foundation: the virtue of the people, the authority of local institutions, and the restraint of cultural self-government.

This opening section presents the foundational debate between the Federalists and Anti-Federalists not as a conflict between right and wrong, but as a tension between two partial insights. The Federalists defended structure; the Anti-Federalists warned about its limits. Both perspectives are treated here as necessary to understanding the system we inherited—and the crisis we now face. Rather than take sides, this work synthesizes both traditions to explain how the Constitution's strengths were slowly undermined by cultural shifts, political ambition, and structural neglect.

It also challenges the modern assumption that rights and constitutional meaning are fluid—that they evolve with the times or bend to the will of contemporary sensibilities. The Founders held the opposite view: that liberty required fixed principles, not adaptable ones. As Thomas Jefferson warned, *"In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."* The purpose of that Constitution was not to follow the culture, but to guard against its worst impulses when virtue faded or tyranny gained favor.

By connecting 18th-century arguments to 21st-century realities, the early chapters frame the modern political moment not as a surprise, but as a predictable consequence of forgetting the conditions under which the system was designed to operate. What follows is a call to remember those conditions—and to restore them where they have failed.

Summary of Thesis

The Republic is conditional, not inevitable, and not self-executing.

This thesis:

- Rejects progressive fluidity: the idea that the Constitution must evolve to match the culture. Natural Law and Constitutional principles are fixed.
- Rejects conservative romanticism: the belief that the Constitution is perfect and self-correcting.
- Instead, offers a moral-structural synthesis:
  a brilliant design with a fragile dependency—on virtue, on civic restraint, and on the moral foundations of self-government.

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The Conditional Republic: Why the Constitution Was Never Enough

There was a time when hope for the American experiment was not only alive but grounded in reason, conviction, and practical effort. The Founders, even in their disputes, shared a core belief: that virtue, vigilance, and civic responsibility were the indispensable foundations of any lasting republic. The Federalists placed their trust in the architecture of government separation of powers, checks and balances, and federalism as tools to contain human ambition and preserve liberty. But they also understood that no system, however well-designed, could survive moral decay. James Madison captured this plainly in *Federalist No. 55*: "Republican government presupposes the existence of virtue among the people." Their hope was not naïve; it was rooted in the assumption that a free people would remain worthy of freedom.

The Anti-Federalists, more wary of centralized authority and more skeptical of human nature, issued deeper warnings. They feared that without strict limits; the new government would slip into consolidation and coercion. Yet even they believed that liberty could endure if buttressed by an explicit Bill of Rights, strong state governments, and an active, informed citizenry. Their resistance shaped the founding documents and forced essential compromises. For generations, the nation balanced between these visions, upheld by local institutions, personal restraint, and constitutional modesty. But the revolutions of the 20th and 21st centuries cultural, bureaucratic, and ideological eroded that foundation. Shared moral assumptions fractured. Power became abstract and unaccountable. And a system that was always conditional, always dependent on the character of its people, began to fail not because the Constitution was insufficient, but because the conditions for its success were no longer met.

The Lost Safeguards: Anti-Federalist Warnings for 2025

In the context of 2025 American politics marked by growing distrust of federal institutions, executive overreach, politicization of law enforcement, cultural polarization, and state-federal conflicts the Anti-Federalist Papers seem less reactionary and more prophetic. Their fears of consolidation, judicial supremacy, and elite detachment now describe the very conditions we inhabit.

- *Brutus I* warned of a federal government that would expand beyond its limits and erase state sovereignty. Today's agencies exercise sweeping power over speech, healthcare, and commerce, with little regard for state opposition.
- *Federal Farmer II & III* decried the lack of true representation. In 2025, unelected bureaucrats and coastal elites dominate federal policy while local influence wanes.
- *Cato IV* foresaw an executive drifting toward monarchy. The modern presidency, empowered by emergency orders and administrative circumvention of Congress, has proven him right.

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- *Centinel I* called checks and balances illusory without accountability. Congressional oversight, judicial review, and transparency have all faltered under partisan inertia.
- *Brutus XV* predicted judicial supremacy. Federal courts now legislate from the bench on culture, speech, and conscience, bypassing public consent entirely.

If the Anti-Federalists saw what was coming, the Federalists revealed what would be tested.

The Federalists' Ironies

Not all Federalist Papers have aged poorly, but many reveal the fragility of their assumptions.

- *Federalist No. 10* (Madison) argued that a large republic would neutralize factions. In practice, factions have been amplified by digital echo chambers, media polarization, and ideological bureaucracies.
- *Federalist No. 51* trusted that ambition would check ambition. But when ambition becomes collusion, and institutions protect each other instead of counterbalancing, that logic collapses.
- *Federalist No. 78* declared the judiciary the "least dangerous" branch. Today, it may be the most consequential issuing sweeping rulings with the force of law, immune to political accountability.
- *Federalist No. 70* defended a strong executive. In 2025, such a defense feels dangerously naive, given the rise of unilateral governance.

The Anti-Federalists anticipated the system's vulnerabilities. The Federalists, while right about the need for unity, underestimated the long-term consequences of centralized authority without moral constraint.

If the framers underestimated future centralization, the 20th century ensured it—one amendment at a time.

The Structural Wound: Why the 17th Amendment Broke the Balance

The 17th Amendment, ratified in 1913, did more than democratize the Senate it fundamentally dislocated the federal balance of power. Before its passage, U.S. Senators were chosen by state legislatures, giving the states a direct institutional voice in national governance. This was not an oversight; it was a deliberate constitutional design to prevent federal overreach and preserve local sovereignty by anchoring national lawmaking in the consent of organized state governments.

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Support for the amendment was driven by a fusion of progressive idealism, populist frustration, and anti-corruption fervor. Progressives argued that state legislative appointments were subject to backroom deals, elite capture, and corporate influence particularly by railroad and banking interests. Muckraking journalists exposed scandals and deadlocks that left Senate seats vacant or controlled by bribery. Reformers capitalized on these abuses to argue that the people not party bosses or state machines should choose their Senators directly. Many states had already begun using non-binding primaries as a workaround, which helped normalize the idea of direct elections before it was formally enshrined.

But the cost of this reform was structural, not procedural. By shifting to popular elections, the amendment severed the vital link between state legislatures and the federal government. Senators became national politicians, answerable not to the constitutional authority of the states but to donors, media consultants, and party infrastructure. The Senate ceased to function as a guardian of state interests and instead became a second House of Representatives in all but name. Federal consolidation accelerated, and the vertical checks built into the original constitutional design were quietly dismantled.

Repealing or revising the 17th Amendment would not be easy but it would be clarifying. It would re-anchor the Senate in local accountability and reinstate the states as active participants in federal lawmaking, rather than passive recipients of federal mandates. No single reform can restore the republic, but few others strike so directly at the root of today's centralization. This was the wound that bled federalism dry.

The Restoration Blueprint: Saving the Republic on Constitutional Terms

The American republic is not dead, but it is bleeding. Restoration is still possible, but only through courage, clarity, and action. Constitutional restoration requires three parallel efforts: legal reformation, moral renewal, and civic relocalization.

First, dismantle the administrative state. Repeal Chevron and Auer deference. Return legislative power to Congress. Reassert the Tenth Amendment. Remove the concentrated power of unelected federal agencies that currently act as lawmakers, enforcers, and judges.

Second, restore moral seriousness. A free society cannot survive a culture without truth, without restraint, without shared values. Return to the natural law assumptions embedded in the Declaration and reaffirmed by the Founders. Teach them. Live them.

Third, relocalize power. Shift education, policing, economic policy, and community standards back to the states and towns. Restore the authority of the family, the church, and the local assembly. The federal behemoth cannot be reformed from within unless it is first checked from below.

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This is not nostalgia. It is a necessity. Either we return to the principles that made the republic possible, or we watch as its shell remains while its soul dies. The Anti-Federalists understood this. The Founders warned of it. And now the burden rests on us to prove them both right by remembering what they built and restoring what we have lost. Before solutions can succeed, someone must still believe the republic is worth saving

The Voices Who Still Remember

Contemporary constitutionalists offer varied but urgent responses to the current crisis. Though their language and strategies differ, they converge on three essential truths: the crisis is real, it is cultural as much as legal, and it cannot be resolved by politics alone.

- The Realists, such as Glenn Ellmers and Michael Anton, argue that we are already living under a post-constitutional regime. In their view, only a cultural reawakening grounded in natural law and localism can restore what has been lost.
- The Reformers, including Randy Barnett and Philip Hamburger, believe that while the system is badly damaged, it is still legally recoverable. They call for rolling back administrative overreach and reviving constitutional limits through the courts and federalism.
- The Moralists, like Hadley Arkes, Robert George, and Justice Clarence Thomas, insist that virtue is the non-negotiable precondition of liberty. Without a moral citizenry, no legal structure can preserve the republic.

None of them offer guarantees, only a path. And that path requires a rejection of moral relativism, a recommitment to the Constitution's design, and a renewal of personal and civic responsibility.

They do not promise restoration, they demand responsibility. What unites these thinkers is not method, but mission: to awaken a people dulled by comfort, distracted by conflict, and governed from above. Whether through the courtroom, the classroom, or the conscience, their message is the same: a republic without virtue cannot stand, and a Constitution without conviction cannot save itself. The path forward is not mapped by policy alone but by courage, clarity, and a recovery of the moral imagination that made liberty possible in the first place. **If the republic is to endure, it will be because enough Americans chose not just to remember, but to return to our principles and rebuild the foundations.**

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Appendix: Contemporary Constitutional Voices

1. Justice Clarence Thomas

Thomas is perhaps the most Anti-Federalist-minded justice on the Supreme Court. His jurisprudence reflects deep suspicion of federal power, administrative agencies, and modern judicial activism. His opinions often reference natural law, the Declaration of Independence, and the original constitutional structure not just case law.

His concurring opinion in *Gonzales v. Raich* (2005) and his writings on the commerce clause, the Second Amendment, and federalism.

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2. Michael Anton

A Claremont scholar and former national security official, Anton critiques modern liberal constitutionalism and sees today's crisis as a betrayal of the Founding principles. His work channels the Anti-Federalists' cultural warnings more than their structural critiques.

Follow up Reading: *The Flight 93 Election* essay (2016), *The Stakes: America at the Point of No Return* (2020)

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3. Hadley Arkes

A political philosopher who advocates for natural law as the moral core of the Constitution. Arkes argues that legal positivism (law as will, not reason) has hollowed out constitutional meaning. He bridges the Federalist and Anti-Federalist traditions by grounding liberty in moral absolutes.

Follow up Reading: *First Things* essays and *Natural Rights and the Right to Choose* (2002)

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4. Randy Barnett

A legal scholar who defends originalism but also challenges how the courts have eroded constitutional limits, especially on federal power. Barnett's "presumption of liberty" principle aligns with Anti-Federalist concerns about centralized authority.

Follow up Reading: *Restoring the Lost Constitution: The Presumption of Liberty* (2004)

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5. Glenn Ellmers

A student of Harry Jaffa* and Claremont thinker, Ellmers critiques how the administrative state and cultural relativism have buried the Founders' vision. His work often warns that America no longer lives under its original Constitution culturally or institutionally.

Follow up Reading: *The Soul of Politics: Harry V. Jaffa and the Fight for America* (2021), his essays in *The American Mind*

**a personal favorite of Jeff Pierson*

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6. Judge Janice Rogers Brown

A former D.C. Circuit judge, Brown consistently warned about the rise of the regulatory state and its incompatibility with self-government. She viewed bureaucracy as a soft form of tyranny deeply aligned with Anti-Federalist concerns.

Her speeches and dissents, particularly her remarks on the "collectivist impulse" in American jurisprudence.

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Appendix: The Federalist Papers

The History of the Federalist Papers

The **Federalist Papers** are a collection of 85 essays written between 1787 and 1788 by **Alexander Hamilton**, **James Madison**, and **John Jay**, under the shared pseudonym *Publius*. They were published in New York newspapers during the fierce debates over the ratification of the newly proposed U.S. Constitution. Their purpose was clear: to explain, defend, and promote the Constitution as a solution to the failures of the Articles of Confederation. These essays were not just political arguments they were a public education campaign in republican theory and federal design.

Hamilton authored the majority of the essays and provided the driving force behind their publication. Madison contributed several of the most enduring works, including *Federalist No. 10* on faction and *No. 51* on the logic of checks and balances. Jay, though limited by illness, wrote early essays on foreign policy and national unity. Together, they made a powerful and principled case for a constitutional system that was energetic but restrained, national but not consolidated, republican but enduring. Their vision depended on structure, ambition restrained by ambition, and liberty preserved through the separation of powers.

The *Federalist Papers* addressed the most pressing objections of the time fears of tyranny, loss of state authority, and overreach by the executive and judiciary. The authors responded by emphasizing the limits built into the Constitution: enumerated powers, dual sovereignty, and a system of internal checks. They believed that with the proper structure, liberty could be preserved even in a large republic. Their optimism was grounded in the conviction that good government required both a wise design and a virtuous people.

Over time, the *Federalist Papers* became more than a tool of persuasion. They evolved into a foundational guide to constitutional interpretation, cited by judges, scholars, and statesmen alike. Though not without irony some of their most confident predictions have aged poorly they remain indispensable. Where the Anti-Federalists warned, the Federalists engineered. Together, their debates shaped the republic. And today, the *Federalist Papers* still stand as a reminder that liberty requires not just resistance to tyranny, but the difficult work of building something stronger in its place.

Summar of the Federalist Papers

Federalist No. 1 (Hamilton)

Introduces the collection's purpose: to encourage unified ratification of the Constitution by discussing the merits of a strong federal government versus state-only governance.

Federalist No. 2 (John Jay)

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Argues for the benefits of union under a single government to maintain peace, defense, and a shared identity.

Federalist No. 3–5 (Jay, Hamilton, Jay)

Emphasize the importance of federal oversight in foreign affairs and national security.

Federalist No. 6–9 (Hamilton)

Warn against inter-state rivalries and conflicts that could arise under a loose confederation; advocate for a strong central structure and checks and balances.

Federalist No. 10 (Madison)

A landmark essay discussing 'factions' groups driven by self-interest and making the case that a large republic dilutes their negative influence.

Federalist No. 11–13 (Hamilton)

Focus on national defense, commerce, taxation powers, and why centralized authority is essential.

Federalist No. 14–20 (Madison, Hamilton)

Respond to critics who claim the large size of the U.S. makes republican governance impractical arguing exactly the opposite.

Federalist No. 21–36 (Hamilton)

Detail the federal government's essential powers: taxation, regulation, defense, debt management, and commerce.

Federalist No. 37–40 (Madison)

Explore the debate and compromises during the Constitutional Convention, with special attention to balancing power.

Federalist No. 41–46 (Madison, Hamilton)

Further analysis of delegated powers, checks on federal authority, and guardrails for state sovereignty.

Federalist No. 47–51 (Madison)

Deeply explain the separation of powers (47–48) and checks and balances (49–51). No. 51 contains the famous line, "Ambition must be made to counteract ambition."

Federalist No. 52–66 (Madison, Hamilton)

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Cover the structure of each congressional house, election cycles, impeachment, presidential powers, and the judiciary.

Federalist No. 67–77 (Hamilton)

Dissect the executive branch: its powers, term length, veto, commander-in-chief role, cabinet, and removal powers.

Federalist No. 78–83 (Hamilton)

Discuss the judiciary life tenure, judicial review, independence and rebut concerns about potential overreach.

Federalist No. 84 (Hamilton)

Argues why a Bill of Rights isn't necessary though a few states disagreed, prompting amendments later.

Federalist No. 85 (Hamilton)

Concluding call for ratification, stressing that amendments can follow once the federal structure is in place.

Details of the Federalist Papers

Federalist No. 1 – General Introduction (Hamilton)

In this opening essay, Hamilton introduces the Federalist Papers' mission: to persuade New Yorkers to ratify the newly proposed U.S. Constitution. He frames the debate in urgent and moral terms, stating that the fate of republican government hangs in the balance. The paper emphasizes that Americans are at a decisive moment in history choosing whether their political future will be governed by "reflection and choice" or "accident and force." Hamilton pledges to examine the Constitution fairly, addressing both the strengths and the objections raised by its critics. He signals the topics to come: the inadequacies of the Articles of Confederation, the dangers of disunion, the

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need for energetic government, and the checks and balances built into the proposed system. This essay sets the tone for the entire series by framing the Constitution not just as a legal framework, but as a safeguard of liberty and national survival.

Federalist No. 2 – Concerning Dangers from Foreign Force and Influence (Jay)

John Jay begins his contribution by arguing that the American people already form a natural political union due to shared heritage, geography, language, and interests. He warns that the division of the states into separate confederacies would destroy these natural bonds and expose the country to foreign manipulation, rivalries, and wars. Jay appeals to national identity and mutual interest, stating that one unified government will best provide defense, ensure peace, and protect liberty. His tone is conciliatory but firm this is not simply a matter of political theory but of preserving what the Revolution achieved. He lays the groundwork for future arguments about the necessity of federal oversight in foreign affairs, trade, and diplomacy.

Federalist No. 3 – The Same Subject Continued: Concerning Dangers from Foreign Force and Influence (Jay)

Jay expands his previous argument, asserting that a strong federal government will be more likely to preserve peace by conducting foreign policy responsibly. He argues that individual states may act impulsively or unjustly in international matters, inviting conflict. A centralized authority, in contrast, would attract wiser, more experienced statesmen, able to judge treaties, resolve disputes, and manage war and peace with consistent principles. Jay warns that if foreign nations must deal with thirteen different state governments, misunderstandings and provocations will multiply. He uses both logic and historical analogy to conclude that unity reduces the risk of war and increases the likelihood of fair, honorable interactions with other nations.

Federalist No. 4 – The Same Subject Continued: Concerning Dangers from Foreign Force and Influence (Jay)

Here, Jay highlights another threat: the likelihood of military aggression from foreign powers if the United States remains divided. He suggests that European monarchies, seeing a fractured America, might exploit the divisions to expand influence or territory. Jay warns that competition among rival American confederacies could lead to arms races, shifting alliances, and vulnerability to conquest or coercion. He argues that a united nation, supported by a common military and consistent diplomacy, would deter enemies from attack and secure American independence. Unity is not just philosophically sound, but practically essential for national defense.

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Federalist No. 5 – The Same Subject Continued: Concerning Dangers from Foreign Force and Influence (Jay)

Jay concludes his trilogy on the dangers of disunion by envisioning what would happen if the United States were split into regional confederacies. He predicts that these groups would quickly become jealous of one another, form rival treaties with foreign powers, and descend into the same kind of bitter inter-state warfare that plagued Europe for centuries. He draws from Queen Anne's letters during the union of England and Scotland to show how even friendly regions, if politically divided, can turn hostile. Jay argues that it is naïve to believe separate American governments could maintain peace while pursuing conflicting interests. Only a single, cohesive federal government can preserve the hard-won independence of the Revolution.

Federalist No. 6 – Concerning the Dangers of Dissensions Between the States (Hamilton)

Hamilton warns that even states with shared values and mutual interests are prone to conflict without a central authority. He dismisses the romantic notion that commerce naturally leads to peace, citing examples of wars between commercial powers like Britain and Holland. Human nature ambition, jealousy, greed inevitably breeds rivalry and resentment, especially between independent neighboring states. In the absence of a unifying government, these passions would likely erupt into territorial disputes, economic warfare, or outright violence. Hamilton predicts that such divisions would weaken the nation as a whole and invite foreign manipulation. A strong federal union is necessary not only for foreign defense, but to guard against domestic instability.

Federalist No. 7 – The Same Subject Continued: Concerning the Causes of Internal War (Hamilton)

Hamilton explores the likely causes of civil war among the states if they remain loosely confederated. He highlights several dangers: disputes over borders, competing claims to western lands, differences in public debt burdens, and conflicting commercial policies. These issues, he argues, would lead to resentment, tariffs, and eventually violence. Hamilton suggests that even if individual states began with good intentions, divergent policies and unequal resources would create imbalance and provoke retaliation. He cites historical precedents to show how similar circumstances have led to war in other nations. Only a binding federal government, with equitable authority and judicial mechanisms, can resolve disputes peaceably and fairly.

Federalist No. 8 – The Consequences of Hostilities Between the States (Hamilton)

Here, Hamilton envisions a grim future of militarized borders and standing armies if the states fail to unite. He argues that in the absence of a national government, individual states will be forced to

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maintain military forces for their own protection, leading to a culture of permanent readiness for war. This would drain resources, erode liberty, and concentrate power in military hands a recipe for tyranny. Moreover, neighboring states would become suspicious and antagonistic, further destabilizing the continent. Hamilton contrasts this with a united government, where military power is centralized, controlled, and only used for national defense. The paper emphasizes the internal consequences of disunion, not just foreign threats.

Federalist No. 9 – The Utility of the Union as a Safeguard Against Domestic Faction and Insurrection (Hamilton)

Hamilton rebuts the anti-Federalist claim that republics must be small to be successful. He invokes Montesquieu, arguing that a **confederated republic** a union of smaller republics under a federal structure preserves liberty while avoiding the instability of pure democracies. A large, well-structured union would contain mechanisms to check the rise of dangerous factions and prevent insurrections. He explains how the Constitution's proposed division of powers, layered jurisdictions, and checks and balances will limit the spread of extremism or concentrated tyranny. This paper lays the theoretical groundwork for Madison's argument in the next essay and affirms that scale, if properly managed, is a strength not a weakness of the American republic.

Federalist No. 10 – The Same Subject Continued: The Utility of the Union as a Safeguard Against Domestic Faction and Insurrection (Madison)

Arguably the most famous and philosophically important essay in the series, No. 10 confronts the problem of **faction** groups of citizens motivated by self-interest or passion rather than the common good. Madison argues that factions are inevitable due to human nature, but their effects can be mitigated in a large, pluralistic republic. In a small society, factions can dominate; but in a large union, competing interests cancel each other out. Madison rejects the idea of suppressing factions by force or mandating uniform opinions both approaches would destroy liberty. Instead, the Constitution establishes a system of **representative government** in a large republic, where it becomes difficult for any one faction to gain majority control. This structure protects minority rights and stabilizes the political order. No. 10 is a cornerstone of constitutional republican theory and continues to influence debates over democracy, pluralism, and liberty.

Federalist No. 11 – The Utility of the Union in Respect to Commercial Relations and a Navy (Hamilton)

Hamilton argues that unity under the Constitution is essential for America's economic and maritime strength. Without a central government, the states will compete against each other in trade and tariff policies, weakening their leverage with foreign nations. A united government, by

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contrast, can enforce a coherent commercial policy, build a strong navy, and protect American shipping and manufacturing. Hamilton foresees the rise of America as a commercial power and warns that European nations will only respect the United States if it presents a single, formidable front. He casts economic independence as both a matter of prosperity and national sovereignty. This essay introduces the idea that economic strength and naval power are mutually reinforcing pillars of a successful union.

Federalist No. 12 – The Utility of the Union In Respect to Revenue (Hamilton)

This paper connects economic unity to effective taxation. Hamilton contends that the federal government, under the Constitution, will be better equipped to raise revenue through indirect taxes like tariffs, which are less burdensome and easier to collect than direct taxes. A fragmented confederacy would struggle to enforce taxation laws and suffer from widespread evasion. With unified regulation of trade, the government can efficiently collect duties on imports at ports and borders. Hamilton also argues that the economic flourishing that follows union will increase the nation's taxable wealth. He believes revenue generation under the Constitution will be both more just and more productive than anything possible under the Articles.

Federalist No. 13 – Advantage of the Union in Respect to Economy in Government (Hamilton)

Hamilton makes a pragmatic, financial argument: a single national government is more cost-effective than maintaining separate state governments with overlapping institutions. He points out that the expenses of multiple military establishments, bureaucracies, and diplomatic channels would be unsustainable for smaller state confederacies. The proposed Constitution streamlines these functions under a single federal system, resulting in both administrative efficiency and national cohesion. Hamilton also warns that the false economy of state sovereignty would, in the long run, lead to greater instability, expense, and inefficiency. This essay appeals to readers' common sense: unity is not just philosophically sound, but fiscally prudent.

Federalist No. 14 – Objections to the Proposed Constitution From Extent of Territory Answered (Madison)

Here, Madison addresses a key anti-Federalist concern: that a republic cannot function effectively over such a vast territory as the United States. He draws a distinction between **democracy**, which demands direct participation by the people and is suited only to small societies, and **republicanism**, which relies on **representation** and can scale with size. Madison argues that under the proposed Constitution, citizens will govern themselves locally while delegating national concerns to their elected representatives. The geographic size of the Union is actually a benefit, as

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it provides a buffer against rapid political swings and sudden revolutions. He concludes by affirming that physical distance is not a barrier to liberty but rather a safeguard for it.

Federalist No. 15 – The Insufficiency of the Present Confederation to Preserve the Union (Hamilton)

This paper begins a direct and scathing critique of the Articles of Confederation. Hamilton states that the government under the Articles lacks the power to enforce laws or ensure national compliance. He calls the Confederation a system of mere recommendations, which the states routinely ignore, rendering the national government impotent. Without a mechanism to compel obedience, law becomes suggestion, not command and justice collapses. Hamilton warns that this structure invites national humiliation, foreign disrespect, and eventual collapse. The Constitution, in contrast, provides the federal government with **direct authority over individuals**, a necessary condition for any functioning political system. This essay marks the beginning of a sustained dismantling of the Articles, laying the groundwork for the urgent need to replace them.

Federalist No. 16 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union

Hamilton escalates his criticism of the Articles of Confederation by addressing the fatal weakness of depending on state governments to enforce national laws. In his view, this structure turns the union into a mere diplomatic league, incapable of addressing disobedience or rebellion. He argues that true sovereignty means a government must act directly on individuals, not through intermediary states. Otherwise, enforcement requires military intervention, which invites civil war. The Constitution solves this by giving federal authority real jurisdiction over the people, backed by judicial and legislative mechanisms not violence. Hamilton sees this as essential to prevent chaos and disunion.

Federalist No. 17 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union

Hamilton refutes the fear that the federal government will usurp the powers of the states. He argues that local institutions will retain primary control over areas like justice, property, and public order domains that directly touch the lives of citizens. Because people naturally identify with their local governments, Hamilton believes states will remain strong, even under a national system. Far from overpowering the states, he claims the danger lies in federal weakness. The Constitution, by design, limits central overreach while correcting the Articles' fundamental flaw: the inability to govern effectively.

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Federalist No. 18 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union

This begins Hamilton's and Madison's historical case studies of failed confederacies. Hamilton reviews the ancient Amphictyonic League of Greek city-states, which descended into mutual destruction because it lacked centralized enforcement. He argues that disjointed alliances, even when founded on noble principles, inevitably succumb to internal rivalry and collapse. The lesson: confederacies cannot maintain peace or justice unless they vest real authority in a unified government. Historical precedent proves the necessity of abandoning the Articles for something stronger.

Federalist No. 19 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union

Madison picks up the historical argument, focusing on the Germanic empire (Holy Roman Empire) and its centuries-long dysfunction. He describes how it failed to unify its members, enforce laws, or provide basic security, allowing local princes to undermine imperial authority. Madison compares this to the current American Confederation, suggesting that the same fate awaits the United States if it continues under a weak, decentralized system. The only path to political viability, he argues, is one that empowers a central authority to preserve national unity and peace.

Federalist No. 20 – The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union

Continuing his historical analysis, Madison examines the Dutch Republic, another failed confederation. Though originally designed for mutual protection and cooperation, it quickly devolved into dysfunction due to its inability to enforce laws or resolve disputes among provinces. Madison draws direct parallels with the American states under the Articles, warning that reliance on voluntary state compliance leads to paralysis. He concludes that only a system like the proposed Constitution where the national government legislates directly on individuals can avoid the failures seen across history.

Federalist No. 21 – Other Defects of the Present Confederation

Hamilton begins cataloging additional structural flaws of the Articles, focusing on their inability to maintain order, raise revenue, and defend the nation. He highlights the absurdity of relying on voluntary state contributions ("quotas") for national funding an approach that inevitably fails. He

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argues that taxation must be a federal power, exercised uniformly and enforceably across all states. He also critiques the lack of mechanisms for suppressing rebellion or domestic unrest. This essay begins a pivot from historical comparisons to practical structural reform.

Federalist No. 22 – The Same Subject Continued: Other Defects of the Present Confederation

Hamilton sharpens his focus on the political consequences of the Articles' flaws. He criticizes the equal vote each state has in Congress, regardless of population, calling it a system that rewards weakness and punishes strength. He also laments the inability of Congress to regulate commerce, which prevents America from negotiating trade deals or defending economic interests abroad. Most importantly, Hamilton returns to the theme that laws must be enforceable not simply "recommendations" if a government is to function. He declares that the Articles are fundamentally broken, and only a radical overhaul like the Constitution can correct them.

Federalist No. 23 – The Necessity of a Government as Energetic as the One Proposed to the Preservation of the Union

Here, Hamilton turns to national defense. He asserts that a federal government must possess "illimitable" powers to provide for the common defense, particularly in times of war. He argues that military powers must not be limited in scope or tied to prescriptive lists because war cannot be predicted or micromanaged. The Constitution entrusts these powers to Congress, but with safeguards in place. Hamilton emphasizes the principle of necessity: the means must be proportionate to the ends. If the federal government is responsible for defending the nation, it must be equipped to do so without hesitation or dependence on state consent.

Federalist No. 24 – The Powers Necessary to the Common Defense Further Considered

Hamilton addresses the suspicion of standing armies during peacetime a central fear among anti-Federalists. He argues that the Constitution does not mandate a permanent army, but wisely allows Congress to raise and fund one as necessary. Given the presence of foreign forces in nearby British Canada and Spanish Florida, and the volatility of frontier regions, Hamilton insists that military preparedness is essential. He also notes that many state constitutions already permit standing forces. The real safeguard, he argues, lies in the two-year funding limit and the people's control over Congress not in tying the government's hands against external threats.

Federalist No. 25 – The Same Subject Continued

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Hamilton continues defending the federal government's military powers, particularly its authority to deploy forces within any state. He argues that the national government must be able to defend all parts of the country equally, not just respond when states request help. Waiting for state authorization could be disastrous in a sudden invasion or rebellion. He emphasizes unity: defense must be national, not piecemeal. If the United States is to survive in a dangerous world, its government must act swiftly, decisively, and comprehensively to secure the peace.

Federalist No. 27 – The Same Subject Continued (Hamilton)

Hamilton addresses the enforcement of federal laws, arguing that under the Constitution, citizens will be more likely to comply because they will be governed by laws created through a legitimate, national process. Unlike the Articles, which act only through state governments, the Constitution allows direct governance of individuals, creating both responsibility and accountability. He asserts that the people will be more inclined to respect laws that are uniform and predictable across the union, particularly if those laws are enforced by a stable national judiciary and supported by public sentiment.

Federalist No. 28 – The Same Subject Continued (Hamilton)

Hamilton explores the use of military force to suppress rebellion, defending the necessity of this power in extreme cases. He maintains that while ordinary enforcement should rely on civil institutions, a government must have recourse to arms to preserve order if laws are defied en masse. However, this power is not a threat to liberty it is essential to it. In a republic, the people ultimately control the military, and in the unlikely event that federal power becomes tyrannical, the people and the states retain the right to resist. Thus, force serves as both a safeguard against disorder and a last resort against federal abuse.

Federalist No. 29 – Concerning the Militia (Hamilton)

Hamilton clarifies the role of the militia under the Constitution, arguing that the federal government must have authority to organize, arm, and discipline it. He opposes the idea of a fully federalized or overly regulated militia, advocating instead for a balance: national oversight with state appointment of officers. The goal is to ensure readiness and uniformity while respecting local control. Hamilton dismisses the idea that a standing army will eclipse the militia, asserting that a well-regulated citizen force is not only a complement to national defense but also a check against tyranny.

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Federalist No. 30 – Concerning the General Power of Taxation (Hamilton)

Hamilton presents a full-throated defense of granting the federal government the power to tax. He argues that revenue is the lifeblood of government necessary for defense, infrastructure, and basic operations. The Articles of Confederation failed largely because Congress could only request funds from states, not collect them. He emphasizes that the power to tax should not be limited to specific objects, like tariffs, but must include internal taxes to ensure reliability and flexibility, especially in wartime. Fiscal sovereignty is fundamental to national sovereignty.

Federalist No. 31 – The Same Subject Continued (Hamilton)

Here, Hamilton builds on his prior argument, asserting that the means of achieving necessary ends such as security, stability, and prosperity must be as broad and adaptable as the ends themselves. Since government must act for the public good, it must have the tools (including tax authority) to do so. He argues that mathematical certainty in political structures is impossible, so practical wisdom and institutional checks like elections are the best guarantee of liberty. The Constitution doesn't give unlimited power; it gives sufficient power.

Federalist No. 32 – The Same Subject Continued (Hamilton)

Hamilton addresses the balance between state and federal taxation powers. He clarifies that the Constitution does not deprive the states of their power to tax; it simply grants the federal government concurrent power, except in cases where exclusivity is necessary such as duties on imports or where express prohibitions exist. The aim is cooperative sovereignty, not hierarchy. This essay reassures readers that the states will remain robust actors in the American system.

Federalist No. 33 – The Same Subject Continued (Hamilton)

This paper addresses the "necessary and proper" and "supremacy" clauses, which critics fear will grant unlimited power to the federal government. Hamilton argues that these clauses merely affirm what is implicit in any functional government: that it must have the means to fulfill its duties and that its laws must prevail over conflicting state laws. These provisions are not a license for tyranny but essential to legal clarity and national coherence.

Federalist No. 34 – The Same Subject Continued (Hamilton)

Hamilton continues defending concurrent taxation. He argues that the federal government needs flexible, unlimited access to revenue, especially in emergencies such as war. While the states will

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remain primarily responsible for ordinary expenses (e.g., education, infrastructure), the federal government must be ready to act decisively in extraordinary times. The paper balances theoretical argument with practical needs, emphasizing that the federal taxing power is not only logical but essential to survival.

Federalist No. 35 – The Same Subject Continued (Hamilton)

Hamilton turns to representation in taxation, responding to the concern that merchants and financiers will dominate tax policy. He argues that representatives must be chosen based on wisdom and integrity, not rigid occupational categories. A merchant can represent farmers just as a farmer can represent artisans. What matters is public trust and electoral accountability. The idea that specific economic sectors must control taxation policy is unrealistic and unnecessarily divisive.

Federalist No. 36 – The Same Subject Continued (Hamilton)

This paper concludes Hamilton's argument for federal taxation by emphasizing that state and federal governments can coordinate taxation without conflict. He advocates for the use of local knowledge and state officials in collecting federal taxes to increase efficiency and legitimacy. The ultimate goal is not to centralize everything in Washington but to ensure that national interests are supported with the necessary fiscal tools and cooperative governance.

Federalist No. 37 – Concerning the Difficulties of the Convention in Devising a Proper Form of Government (Madison)

Madison begins a new phase in the Federalist Papers by acknowledging the inherent difficulties in designing any government, especially one that balances energy and restraint. He describes how the Constitutional Convention had to reconcile contradictory objectives: federal vs. national authority, liberty vs. order, stability vs. adaptability. The compromises reached were not signs of failure, but of wisdom. Madison defends the Constitution as the product of human reason applied to complex realities. Its imperfections are outweighed by its practical strengths and its capacity for future improvement.

Federalist No. 38 – The Same Subject Continued, and the Incoherence of the Objections to the New Plan Exposed (Madison)

Madison highlights the hypocrisy and inconsistency of many Constitution critics. He notes that many of the same people who now attack the Constitution had previously acknowledged the need

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for a stronger government. Moreover, he argues that no previous system including the Articles was adopted with such care, consensus, or intellectual rigor as the Constitution. He stresses that demanding perfection before ratification is unrealistic; no system can anticipate every challenge. The Constitution should be judged on whether it is significantly better than the status quo which it is.

Federalist No. 39 – The Conformity of the Plan to Republican Principles (Madison)

Madison answers the question: is the Constitution truly republican? He defines republican government as one where power derives from the people and is exercised by representatives. He affirms that the Constitution meets this standard at every level: direct elections in the House, indirect representation in the Senate and Presidency, and a judiciary independent yet accountable. He also tackles whether the Constitution is federal or national. His answer: both. It is national in operation and origin, but federal in structure blending state and popular sovereignty to create a balanced union.

Federalist No. 40 – The Powers of the Convention to Form a Mixed Government Examined and Sustained (Madison)

Madison defends the legitimacy of the Constitutional Convention, responding to the charge that the delegates exceeded their authority by drafting an entirely new system. He argues that the Articles of Confederation had already failed so completely that any effective remedy would require systemic reform, not superficial amendments. Moreover, the Convention's goal was to secure the Union, and the Constitution was the best path toward that end. The real question is not whether the delegates followed strict instructions, but whether their plan is necessary, just, and beneficial to the people.

Federalist No. 41 – General View of the Powers Proposed to Be Vested in the Federal Government

Madison opens a new discussion: whether the powers granted to the federal government are excessive and dangerous. He argues that objections to these powers often conflate necessary authority with potential for abuse. The question should not be whether a power *can* be misused, but whether it is *indispensable* to the goals of government particularly security and the general welfare. Madison emphasizes that national defense and economic stability require a federal government with real, enforceable powers. While vigilance is always warranted, distrust alone is not a valid basis for dismantling essential authority.

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Federalist No. 42 – The Powers Conferred by the Constitution Further Considered

Madison outlines additional delegated powers, particularly those involving interstate commerce, foreign relations, and naturalization. He highlights that under the Articles of Confederation, states pursued conflicting trade policies and foreign treaties, undermining national unity. The Constitution resolves this chaos by centralizing control over foreign affairs and commercial regulation. Madison also defends federal authority over immigration and bankruptcy, arguing these are inherently national concerns. This essay underscores that a functioning union requires uniform rules in key domains, and that the Constitution reflects thoughtful distribution of power, not arbitrary centralization.

Federalist No. 43 – The Same Subject Continued

Madison completes his enumeration of federal powers, covering intellectual property rights, the creation of a federal capital, the process for admitting new states, and the power to guarantee republican government in the states. He defends each clause as practical and necessary. Of particular importance is the guarantee clause, which ensures that no state falls into despotism or anarchy. He also addresses the amendment process, emphasizing that the Constitution allows for future reform proof that it is not a rigid blueprint but a living structure adaptable to changing needs.

Federalist No. 44 – Restrictions on the Authority of the Several States

Here, Madison defends the Constitution's restrictions on state governments. These include prohibitions on issuing paper money, making treaties, or interfering with contracts. He argues that such limits are essential to maintaining national unity and avoiding economic chaos. Madison also justifies the "necessary and proper" clause, arguing that it simply affirms what is logically required: Congress must have the means to carry out its constitutional duties. He insists that the Constitution wisely balances state and federal power, ensuring both function effectively within their proper domains.

Federalist No. 45 – The Alleged Danger From the Powers of the Union to the State Governments Considered

Madison reassures readers that the Constitution strengthens, rather than threatens, state governments. He argues that the federal government's powers are few and defined focused on national concerns like war, peace, and commerce while state governments retain broad authority over daily life, property, and justice. He emphasizes that the states are integral to the federal

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system, not subordinate to it. In fact, he claims the states will always retain more influence over the people's affections, and their governments will remain the primary venues for civic life.

Federalist No. 46 – The Influence of the State and Federal Governments Compared

Expanding on No. 45, Madison contends that the structure of the Constitution ensures that federal and state governments are both answerable to the people, but with distinct roles. He asserts that if the federal government ever overreaches, the states backed by their militias and the people's loyalty could resist. He sees this dual sovereignty as a safeguard against tyranny. Far from being adversaries, state and federal governments complement each other, each drawing legitimacy from the same source: the people.

Federalist No. 47 – The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts

Madison addresses the concern that the Constitution violates the principle of separation of powers. He acknowledges that political philosophers, especially Montesquieu, called for distinct branches, but clarifies that this does not mean *absolute* separation. In practice, some degree of overlap is necessary for coordination and mutual checks. Madison reviews the constitutions of several states to show that partial interdependence between branches is both common and prudent. The Constitution, he argues, follows this pattern without concentrating power dangerously.

Federalist No. 48 – These Departments Should Not Be So Far Separated as to Have No Constitutional Control Over Each Other

Madison warns that simply writing separation of powers into law is insufficient. Unless each branch has practical tools to check the others, paper barriers will fail. He cites examples from Virginia and Pennsylvania, where legislative supremacy undermined the balance of power. Madison stresses that real separation requires mutual oversight: the branches must be co-equal, but armed with the means to resist encroachment. This essay foreshadows the checks and balances system outlined more fully in No. 51.

Federalist No. 49 – Method of Guarding Against the Encroachments of Any One Department of Government by Appealing to the People Through a Convention

Madison critiques the idea that frequent appeals to the people via conventions or direct referenda can preserve the balance of power. While the people are the ultimate source of authority, too much

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reliance on direct intervention would destabilize government and invite manipulation by ambitious leaders. Instead, Madison advocates institutional solutions: internal checks, staggered terms, and structural balance. Stability and accountability must be achieved through constitutional design, not constant public upheaval.

Federalist No. 50 – Periodical Appeals to the People Considered

This essay continues the critique of regular popular conventions as a check on government abuse. Madison argues that periodic appeals would either occur too often leading to instability or too infrequently to be effective. Moreover, such gatherings would likely be dominated by the same passions and factions they are meant to curb. He emphasizes that well-designed institutions, not periodic revolutions, are the key to lasting liberty. The solution lies in distributing power wisely, not in relying on external correction.

Federalist No. 51 – The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments

This is one of the most famous Federalist Papers. Madison articulates the core philosophy behind the Constitution's design: "ambition must be made to counteract ambition." Each branch of government must have both the constitutional means and the personal motivation to resist encroachment by the others. A double security for liberty is provided by dividing power between the federal and state governments and within each level among separate branches. Since human nature cannot be trusted with unchecked power, the Constitution creates a system where each part of government is both empowered and constrained.

Federalist No. 52 – The House of Representatives

Madison begins his analysis of the legislative branch, starting with the House of Representatives. He argues for biennial elections, balancing responsiveness to public will with sufficient time for legislators to learn their duties. The House is designed to reflect the people's voice, with broad eligibility and frequent turnover. Madison stresses the importance of rotation, accountability, and popular election, seeing these as essential to republican government.

Federalist No. 53 – The Same Subject Continued

This essay expands on the argument for two-year terms in the House. Madison rejects the idea that short terms are always more democratic. He argues that some level of political experience is necessary for effective governance, particularly in a complex union. Frequent elections would

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result in constant campaigning and shallow expertise. Two years strikes a balance between accountability and competence, especially as representatives will be involved in matters beyond local affairs.

Federalist No. 54 – The Apportionment of Members Among the States

Madison defends the Constitution's method of apportioning representation in the House, including the controversial clause counting enslaved persons as three-fifths of a person. He admits the compromise is morally and politically imperfect, but argues that it reflects a political necessity given the divided views of the states. He emphasizes that representation must correspond to population and wealth, and while the three-fifths rule is flawed, it reflects the prevailing federal balance and prevents disunion.

Federalist No. 55 – The Total Number of the House of Representatives

Here, Madison addresses concerns that the initial number of representatives (65) is too small. He counters that the number will grow as the population increases and that small beginnings are not inherently dangerous. What matters is not quantity, but quality: a well-designed electoral system, a culture of accountability, and a constitutional framework that ensures growth. He also notes that the small size at the outset encourages deliberation while avoiding mob rule.

Federalist No. 56 – The Same Subject Continued: The Total Number of the House of Representatives (Madison)

Madison responds to critics who claim that the small number of initial House members will be incapable of understanding the varied interests of such a large country. He argues that the House is not intended to manage all local details, only those national interests that are common across districts like commerce, taxation, and foreign affairs. Local knowledge is still preserved because representatives come from and are accountable to their constituents. Madison insists that as the population grows, so too will the size of the House, ensuring adequate representation over time.

Federalist No. 57 – The Alleged Tendency of the New Plan to Elevate the Few at the Expense of the Many (Madison)

This essay addresses the concern that representatives will become an elite class, detached from the people. Madison argues that the structure of the Constitution guards against this by creating multiple incentives for fidelity to the public: frequent elections, broad eligibility for office, and the reality that representatives are subject to the same laws they enact. He maintains that the people

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are the ultimate check on corruption and that the design of the House ensures accountability, responsiveness, and public trust.

Federalist No. 58 – Objection That the Number of Members Will Not Be Augmented as the Progress of Population Demands Considered (Madison)

Madison reassures readers that the Constitution guarantees proportional growth in representation. While he acknowledges the danger of small legislative bodies being co-opted by elites, he also warns against the inefficiency and instability of excessively large assemblies. The Constitution strikes a balance by establishing a manageable initial size with mechanisms for growth. He argues that the people's direct role in elections ensures that representatives cannot indefinitely limit their own number or power.

Federalist No. 59 – Concerning the Power of Congress to Regulate the Election of Members (Hamilton)

Hamilton defends the provision that allows Congress to regulate federal election procedures. He argues this power is essential to prevent states from manipulating or obstructing national elections such as by refusing to hold them. Without this safeguard, state governments could destroy the union by withholding its lifeblood: the people's voice. Hamilton emphasizes that this is not a threat to state autonomy but a necessary check to preserve national continuity.

Federalist No. 60 – The Same Subject Continued (Hamilton)

Critics feared that Congress's control over election procedures could be used to favor certain classes or factions. Hamilton refutes this by pointing out the diversity of interests represented in Congress and the checks built into federalism. He argues that no single group can easily dominate a system with so many competing elements. The people's right to vote, and the decentralized structure of government, make coordinated manipulation unlikely.

Federalist No. 61 – The Same Subject Continued (Hamilton)

Hamilton continues defending federal oversight of elections, specifically the timing and location of voting. He argues that allowing flexibility in these matters is critical for national stability and consistency. States may change over time in population and influence, so Congress must retain the ability to adjust procedures accordingly. This power, he insists, is administrative, not despotic, and will be wielded under the scrutiny of a representative government.

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Federalist No. 62 – The Senate (Madison)

Madison shifts focus to the Senate and its unique design. He explains that the Senate's smaller size and longer terms provide a stabilizing counterweight to the more volatile House. Equal representation for each state ensures that smaller states are not dominated, preserving federalism. Madison acknowledges this arrangement departs from pure proportionality, but justifies it as a necessary compromise to protect state interests and balance national authority with local sovereignty.

Federalist No. 63 – The Senate Continued (Madison)

Madison emphasizes the Senate's role in providing wisdom, stability, and a long-term perspective. Its six-year terms give senators independence from momentary passions or public frenzy, making it especially well-suited to conduct foreign affairs and restrain ill-considered legislation. Madison argues that history proves the value of a prudent second chamber, and that the Senate's structure makes it uniquely equipped to safeguard both the people and the Constitution from rash democratic impulses.

Federalist No. 64 – The Powers of the Senate Continued (Jay)

John Jay defends the Senate's role in making treaties. He argues that because treaties require careful deliberation and affect the nation's global standing, they must be handled by a body characterized by wisdom, experience, and stability. The Senate, with its small size and longer terms, is better suited than the House for this responsibility. Jay also supports the requirement for a two-thirds majority, which ensures broad consensus before any treaty becomes binding.

Federalist No. 65 – The Powers of the Senate Continued (Hamilton)

Hamilton discusses the Senate's role in impeachment trials. He argues that the Senate is the best institution to judge such cases, as it combines political insight with legal procedure. Impeachments are not purely judicial, as they involve matters of public trust, nor are they purely political, since they require evidence and fairness. The Senate's structure deliberative, balanced, and accountable makes it ideal for adjudicating high crimes and misdemeanors committed by public officials.

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Federalist No. 66 – Objections to the Senate as a Court of Impeachment Further Considered (Hamilton)

Hamilton addresses the concern that the Senate's involvement in other branches like appointments and treaties disqualifies it from impartial impeachment trials. He rebuts this by arguing that the Senate's roles are clearly divided and carried out at different times, under separate procedures. He also notes that the ultimate punishment from impeachment is removal, not criminal penalty, preserving the accused's right to trial in a separate venue. The Constitution thus avoids both legislative overreach and executive impunity.

Federalist No. 67 – The Executive Department (Hamilton)

Hamilton begins his defense of the presidency by correcting mischaracterizations. Critics claim the president will be a monarch; Hamilton replies that this is false and inflammatory. He distinguishes the limited, defined powers of the president from the unchecked authority of kings. He points out that presidential powers are both shared (e.g., appointments, treaties) and checked (e.g., impeachment, elections). This essay introduces a broader argument: that the executive must be energetic and independent, but always accountable to law and people.

Federalist No. 68 – The Mode of Electing the President (Hamilton)

This essay defends the Electoral College as a safeguard against demagoguery and foreign interference. Hamilton explains that electors are chosen by the people but insulated from direct influence, allowing them to deliberate independently. This system avoids chaotic popular elections while preserving democratic legitimacy. Hamilton believes the Electoral College will favor qualified candidates and prevent political cabals from seizing power. It reflects a design meant to combine popular input with reflective judgment.

Federalist No. 69 – The Real Character of the Executive (Hamilton)

Hamilton directly compares the president to the British monarch to dispel fears of tyranny. He shows that the president has no hereditary claim, no control over the military without congressional support, no unilateral lawmaking power, and no lifetime tenure. The president is elected, accountable, removable, and constrained by the Constitution. Hamilton's argument is that executive power, while vigorous, is not arbitrary it is limited by design and moderated by institutions.

Federalist No. 70 – The Executive Department Further Considered (Hamilton)

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Hamilton famously argues that a strong, **unitary executive** is essential to good government. Energy in the executive defined as decisiveness, speed, and accountability is crucial for enforcing laws, protecting liberty, and ensuring national security. A plural executive would divide responsibility, obscure blame, and invite infighting. One president ensures clarity, unity, and effectiveness. Hamilton acknowledges the risks of power concentration, but insists that they are outweighed by the need for focused leadership.

Federalist No. 71 – The Duration in Office of the Executive

Hamilton argues that the president's four-year term provides the necessary balance between stability and accountability. Too short a term would subject the executive to fleeting public passions and discourage bold, principled decisions. A longer term gives the president time to implement policy, resist undue influence from Congress or factions, and act with independence. Hamilton envisions the presidency as an office that must sometimes act counter to popular impulse for the nation's long-term benefit requiring both insulation and responsibility.

Federalist No. 72 – The Same Subject Continued, and Re-Eligibility of the Executive Considered

In defending unlimited presidential re-election, Hamilton contends that the people should not be arbitrarily denied the option to keep a good leader in office. He warns that term limits would deprive the nation of experience, continuity, and effective leadership in times of crisis. Allowing re-election incentivizes the president to govern well and remain accountable. The risk of over-concentration of power is better handled through electoral checks than rigid prohibitions.

Federalist No. 73 – The Provision for the Support of the Executive, and the Veto Power

Hamilton discusses two critical protections of the executive: a fixed salary and the power to veto legislation. A stable income ensures independence from Congress, while the veto gives the president a constitutional tool to defend his office and resist unconstitutional or ill-considered laws. Hamilton insists the veto is not a sign of dominance but a shield subject to override by two-thirds of Congress and thus a vital check in the separation of powers.

Federalist No. 74 – The Command of the Military and the Power to Grant Pardons

Hamilton defends the president's role as commander-in-chief, arguing that military command must be centralized in one office to ensure swift and unified action. He also supports the executive's power to issue pardons, particularly in cases of rebellion, where mercy might help

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restore peace. Hamilton views the pardon power as an important tool of justice and clemency, best exercised by one individual capable of moral discretion.

Federalist No. 75 – The Treaty-Making Power of the Executive

Hamilton explains why the Constitution assigns treaty-making to a joint venture between the president and the Senate. Treaties are both legislative and executive in nature they require confidentiality, expertise, and flexibility, yet must also reflect the will of the states. Requiring Senate consent ensures that treaties are broadly acceptable, while presidential leadership provides efficiency and continuity. The structure preserves both republican accountability and diplomatic effectiveness.

Federalist No. 76 – The Appointing Power of the Executive

Hamilton defends the president's power to nominate federal officers, with Senate approval. He argues that vesting appointment in a single person prevents corruption and confusion that would result from group nominations. The Senate's role provides a necessary check against cronyism and abuse. This shared responsibility reduces the risk of factionalism and promotes merit-based selections an important element in preserving public trust in government appointments.

Federalist No. 77 – The Same Subject Continued, and the Appointing Power Further Considered

Hamilton continues to explore appointments, particularly the removal of officers. He suggests that the president will need to retain the confidence of the Senate to maintain effective administration. Though his view later became outdated (as the removal power became largely executive), the essay reinforces his argument that the shared appointment process fosters stability, responsibility, and constitutional restraint.

Federalist No. 78 – The Judiciary Department

This foundational essay outlines the power, independence, and limits of the federal judiciary. Hamilton calls the judiciary the "least dangerous" branch, since it holds neither the sword (military) nor the purse (money). Its power lies in judgment alone. Lifetime tenure is justified as a means of preserving judicial independence and protecting the Constitution from legislative overreach. Hamilton defends judicial review the power of courts to strike down unconstitutional laws as an essential defense of limited government and individual rights.

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Federalist No. 79 – The Judiciary Continued

Hamilton discusses safeguards against judicial corruption. Lifetime appointments are not unlimited judges may be impeached for misconduct. He also defends fixed judicial salaries as a bulwark of independence. Hamilton emphasizes that security of tenure and compensation ensure judges remain neutral, rather than tools of legislative or executive whim.

Federalist No. 80 – The Powers of the Judiciary

Hamilton enumerates the kinds of cases the federal courts should hear: those involving the Constitution, federal laws, treaties, foreign diplomats, interstate disputes, and controversies involving the federal government. These areas require uniform, national resolution. The aim is to ensure that federal law is applied consistently and that state bias does not distort national policy. A centralized judicial system protects legal coherence and fair treatment across all states.

Federalist No. 81 – The Judiciary Continued, and the Distribution of Judicial Authority

Hamilton reassures readers that federal courts will not overwhelm state courts. He explains the appellate system, in which the Supreme Court reviews lower court decisions. He also addresses fears about judicial supremacy by noting that Congress controls the structure and jurisdiction of the lower courts. The judiciary is powerful, but not unchecked its authority is bounded by law and balanced by legislative oversight.

Federalist No. 82 – The Judiciary Continued

Hamilton further clarifies the relationship between state and federal courts. State courts retain their traditional powers unless preempted by federal authority. In many cases, they may even adjudicate federal issues unless Congress provides otherwise. This essay promotes judicial federalism: a system where state and federal courts coexist, preserving both local sovereignty and national uniformity.

Federalist No. 83 – The Judiciary Continued in Relation to Trial by Jury

Responding to criticism that the Constitution lacks explicit guarantees of jury trials in civil cases, Hamilton explains that the document preserves jury trials where they existed before and allows Congress to regulate the rest. He argues that the Constitution avoids rigid prescriptions because

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practices vary by state and type of case. By leaving this issue flexible, the Constitution allows adaptation rather than premature overregulation.

Federalist No. 84 – Certain General and Miscellaneous Objections to the Constitution Considered and Answered

This is Hamilton's famous argument against a separate Bill of Rights. He claims the Constitution already contains protections for liberty through its structure, limitations on power, and specific provisions (e.g., habeas corpus, no ex post facto laws). He worries that enumerating rights could be dangerous implying that unlisted rights are unprotected. Though this view ultimately lost out (leading to the Bill of Rights), it represents a profound reflection on how liberty is best secured: through design, not declarations.

Federalist No. 85 – Conclusion

In the final essay, Hamilton urges ratification by emphasizing that the Constitution, while imperfect, is vastly superior to the Articles of Confederation. He appeals to reason, unity, and prudence, reminding readers that amendments can be added later if needed. He critiques the opposition as driven by personal ambition or regional jealousy and insists that delay is dangerous. Hamilton ends the series as he began it with a plea for thoughtful judgment, patriotic responsibility, and a commitment to a more perfect union.

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Appendix: The Anti-Federalist Papers

The History of the Anti-Federalist Papers

The Anti-Federalist Papers are a series of essays and speeches written in 1787–1788 by opponents of the newly proposed U.S. Constitution. Unlike the *Federalist Papers*, which were coordinated under the single pseudonym "Publius," the Anti-Federalist writings were more decentralized authored by a variety of voices using names like *Brutus*, *Cato*, *Federal Farmer*, and *Centinel*. These authors, drawn from Revolutionary veterans, state legislators, and independent thinkers, shared a deep suspicion of centralized authority. They believed the Constitution, as drafted, would create a remote and powerful federal government destined to erode both personal liberty and state sovereignty.

Their warnings were not reactionary they were grounded in principle and experience. The Anti-Federalists feared that a distant national government, unbound by explicit limits, would eventually consolidate power in the executive, insulate its courts from the people, and reduce states to administrative shells. They criticized the absence of a Bill of Rights, the size and scope of the proposed republic, and the potential for a permanent political elite. For them, liberty was fragile, and its preservation required not just institutional checks, but cultural restraint, civic virtue, and local control.

Though they failed to prevent the Constitution's ratification, the Anti-Federalists were not without impact. Their resistance led directly to the adoption of the Bill of Rights, the first ten amendments to the Constitution, which secured protections for speech, religion, arms, due process, and federalism. These concessions were not tokens they were the price of national unity. In that sense, the Anti-Federalists acted as a constitutional conscience, insisting that liberty be secured in writing, not merely trusted to process.

For generations, the Anti-Federalist legacy was marginalized, overshadowed by the triumph of the Constitution they opposed. But in the context of 20th and 21st-century developments bureaucratic expansion, judicial activism, and executive overreach their predictions now appear uncannily accurate. Today, the *Anti-Federalist Papers* are not relics of resistance, but prophetic documents. They offer a mirror to our current crisis and a reminder that constitutional structure, without virtue and vigilance, is never enough.

Pseudonyms

1. Brutus *(Likely Robert Yates – New York)*

Total Essays: 16
Themes:

- Dangers of a powerful judiciary

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- Fear of consolidated government and loss of state sovereignty
- Defense of a small republic over a large one
- Call for a Bill of Rights
  Notable Excerpt:
  "In so extensive a republic, the great officers of government would soon become above the control of the people." (Brutus I)

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2. Federal Farmer *(Possibly Richard Henry Lee or Melancton Smith – Virginia/New York)*

Total Essays: 18
Themes:

- Inadequate representation of common citizens
- Risk of oligarchy and central elite control
- Dangers of standing army and centralized taxation
- Strong defense of state autonomy
  Notable Excerpt:
  "The balance of power between the federal and state governments ought to be clearly defined, and the federal should be restrained."

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3. Centinel *(Likely Samuel Bryan – Pennsylvania)*

Total Essays: 18
Themes:

- Constitutional ambiguity invites abuse
- Critique of aristocratic tendencies among Federalists
- Call for annual elections and shorter terms
- Demand for a Bill of Rights
  Notable Excerpt:
  "The plan of government now proposed is evidently calculated to produce despotism."

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4. Cato *(Possibly George Clinton – New York)*

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Total Essays: 7
Themes:

- Executive branch too powerful
- Comparison of President to monarchy
- Apprehension over long presidential term
  Notable Excerpt:
  "The President is invested with certain powers which may be rendered formidable and dangerous to the liberties of the people."

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5. Agrippa *(Likely James Winthrop – Massachusetts)*

Total Essays: 11
Themes:

- Scale of the republic and failure of representation
- Preservation of local control
- Concerns over commerce and federal control
  Notable Excerpt:
  "A consolidation of this extensive continent under one government is impractical and dangerous."

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6. Other Pseudonyms and Writers

- **An Old Whig** – Warned of the executive power imbalance
- **A Columbian Patriot** (Mercy Otis Warren) – Advocated for civil liberties and women's voices
- **A Democratic Federalist** – Pushed for more popular democratic control
- **Impartial Examiner**, **Plain Dealer**, **Deliberator** – Each contributed 1–4 essays on specific critiques

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Themes

Themes Across the Board

Jeff Pierson

- **Bill of Rights**: Nearly universal demand
- **Fear of Consolidation**: All warned against weakening the states
- **Representation**: Strong support for small districts, local voices
- **Checks and Balances**: Distrust of the proposed separation without amendments
- **Executive Power**: Deep fear of monarchy-like presidency
- **Judiciary**: Concern that federal courts would be unaccountable and activist

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Summary of Themes (Nos. 1–5):

- Concentrated national power = threat to liberty and states
- Distance + size = unaccountability
- Necessity of explicit guarantees (bill of rights)
- Preference for decentralized government responsive to local needs

Key Themes (Nos. 6–20):

- Centralization = loss of liberty, especially via judiciary and executive
- Lack of a bill of rights = unacceptable omission
- Representation is too narrow, distant, and elitist
- State power must be preserved or the union will become a consolidated empire
- A large republic is unaccountable and naturally drifts toward tyranny

Key Themes (Nos. 21–35):

- The judiciary will become supreme, unaccountable, and activist
- Executive power mimics monarchy and invites corruption
- Senate and treaties concentrate elite control
- State sovereignty is the bulwark of liberty
- Distant, consolidated government is inherently dangerous
- Economic and military powers are being centralized beyond justification

Summary Themes (Nos. 36–50):

- Taxation, military, and judiciary powers are overly centralized
- Executive authority threatens to morph into monarchy
- State governments are being structurally subordinated
- Representation is socially and geographically unbalanced
- Ratification was rushed and undemocratic
- A bill of rights is not optional it is the last line of defense

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Core Themes (Nos. 51–80):

- The Convention process was undemocratic and elitist
- The Constitution serves wealthy, coastal, and urban interests
- Religious, regional, and class liberty are endangered by consolidation
- Veterans, farmers, and artisans are being betrayed
- Only an explicit Bill of Rights, and structural reforms, can prevent tyranny

Final Themes (Nos. 81–100):

- Local dignity vs. elite arrogance
- Class, race, and regional identity as unprotected under the Constitution
- Poetic and prophetic appeals to natural liberty
- Direct populist attacks on judiciary, presidency, and taxation
- Defense of militia, rotation in office, cultural inclusion, and agrarian justice

Additional Writings and Fragments (101-115)

- Included below

Summary of the Anti-Federalist Papers

1. Brutus No. 1 (Oct 1787)

"Brutus," likely Robert Yates, warns against a consolidated government under the Constitution. He focuses on the Necessary and Proper Clause and Supremacy Clause, arguing they concentrate unlimited power in Congress, undermining state sovereignty and individual liberty. In his view, once power is ceded to a distant government, it is rarely regained boldly stating that the proposed national legislature would render state governments virtually powerless

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2. Federal Farmer Nos. 1 & 2 (Nov–Dec 1787)

The "Federal Farmer" (likely Richard Henry Lee or Melancton Smith) emphasizes the danger posed to state sovereignty. He worries the Constitution will erode citizens' connection to government as authority shifts away from local institutions. He warns the proposed system is too remote to understand constituency concerns and too powerful to be held accountable leading inevitably to domination by elites

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3. Cato Nos. 1–3 (Late 1787–Early 1788)

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"Cato," probably George Clinton, expresses deep skepticism about a central government. He highlights the geographical and economic disparities across the states climates, population, industries and says a large republic cannot govern diverse interests effectively. He challenges the Federalist argument that size mitigates faction, insisting instead it magnifies alienation and tyranny

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4. Centinel No. 1 (Pennsylvania)

Writing under the name "Centinel," Samuel Bryan warns that the Constitution consolidates power dangerously, weakening local self-governance. He stresses the need for direct citizen participation and transparent checks. Without a bill of rights, he asserts, the new government will have too many discretionary powers with no guarantees of personal and political freedoms.

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5. Patrick Henry's Speeches (Virginia)

Although not penned as essays, Patrick Henry's speeches in the Virginia ratification debates resonate like written Anti-Federalist arguments. He fiercely opposed an unchecked executive, suggested it could become a monarch, and demanded a bill of rights to secure freedom of speech, jury trial, and state autonomy

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6. Brutus No. 2

Brutus argues that a bill of rights is absolutely essential. He criticizes the Constitution's omission of explicit protections for individual liberties such as freedom of speech, freedom of the press, trial by jury, and protection from arbitrary arrest. While the Federalists claim that such protections are implied or unnecessary, Brutus insists that history shows governments tend to expand power and only explicit constraints can preserve liberty. The absence of a bill of rights, he argues, exposes citizens to encroachments by the national government.

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7. Brutus No. 3

This paper attacks the method of representation in Congress, especially in the House. Brutus claims the proposed apportionment is too small to be truly representative of the people. He also objects that the Senate gives equal power to small and large states, which he believes contradicts the idea of popular government. In his view, both chambers of Congress are structurally biased in favor of elites and will ultimately rule without truly reflecting the will of the common citizen.

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8. Brutus No. 4

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Brutus focuses on the corruptibility of elected representatives. He argues that members of Congress will inevitably become disconnected from the people, seduced by power, and manipulated by wealth. Because they serve long terms and are not bound to local constituencies, they will operate more like a ruling class than public servants. Without strong state governments and regular rotation in office, Brutus believes liberty cannot endure.

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9. Brutus No. 5

This essay warns of a national judiciary with excessive power. Brutus predicts that federal courts will expand their jurisdiction over time, usurping state authority and becoming final arbiters in nearly all legal matters. He is especially concerned with the vague wording of Article III, which opens the door to judicial activism and federal supremacy. He argues that without specific limits on federal judicial power, the courts will act as instruments of centralization and erode local justice.

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10. Brutus No. 6

Brutus returns to the theme of representation, warning again that Congress will tend to favor elites. He points out that wealthy interests will dominate elections and that ordinary farmers, mechanics, and laborers will not be able to compete politically. He warns of an emerging class divide, with the government slowly aligning itself against the common citizen and toward aristocracy.

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11. Brutus No. 7

In this essay, Brutus continues his critique of the Supremacy Clause. He claims it will render all state constitutions subordinate to federal law even in areas where states have traditionally governed, such as taxation, infrastructure, and education. He argues that the states will become administrative arms of the national government, no longer truly sovereign or accountable to their people.

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12. Brutus No. 8

This short but important paper criticizes the lack of clear protections for trial by jury in civil cases. Brutus views this as an ominous omission. He notes that jury trials are one of the most essential bulwarks of liberty, and that federal courts without them are dangerous. This omission, he says, shows the framers' disregard for essential liberties and trust in centralized control over due process.

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13. Federal Farmer No. 3

The Federal Farmer criticizes the idea that one federal legislature can adequately represent all parts of the country. He claims that different regions commercial cities, agrarian areas, and frontier settlements have competing interests, and no national body can fairly account for them. Without strong state representation or protections for regional differences, the Constitution will lead to domination by the most populous states or the most concentrated economic powers.

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14. Federal Farmer No. 4

He continues to argue for decentralization and a confederated structure. The Farmer maintains that republics can only succeed when people feel close to their representatives and institutions. A large-scale republic, especially one involving great geographical, economic, and cultural diversity, cannot foster accountability. As power becomes more remote, government will become more abusive, he warns.

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15. Federal Farmer No. 5

In this essay, the Federal Farmer analyzes the Senate's structure and powers. He criticizes the small size of the body and the long terms of office, arguing that this will insulate senators from the public. He also objects to giving the Senate authority over appointments and treaties, which he believes are executive functions. Concentrating so much power in a small chamber, in his view, poses serious risks to liberty and democratic governance.

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16. Federal Farmer No. 6

Here the focus is on the **judiciary** again. The Farmer warns that the federal judiciary will become an aristocracy of lawyers and judges interpreting the Constitution to expand their own influence. The courts' power to determine the scope of laws, especially with no clear jury trial guarantee, means they will reshape the law in ways hostile to state and individual rights.

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17. Cato No. 4

Cato continues his fierce opposition to the executive branch. He warns that the presidency, with its command of the military, control over foreign policy, and influence over appointments, is too powerful and dangerously close to monarchy. Cato argues for either multiple executives or strong

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limitations on re-election. Without such checks, the office of president will become an incubator for tyranny.

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18. Cato No. 5

This paper follows up with a critique of the re-election clause. Cato believes that allowing a president to run for an unlimited number of terms invites corruption and long-term consolidation of power. He supports short terms and mandatory rotation in office to prevent ambition from undermining republicanism.

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19. Centinel No. 2

Centinel addresses the lack of public participation in ratification, criticizing the decision to hold ratifying conventions rather than state referenda. He sees this as a deliberate move to bypass democratic consent and rush the Constitution through. He fears the entire process reflects elitism and a dismissal of ordinary people's judgment.

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20. Agrippa No. 1

In the first of his essays, Agrippa (believed to be James Winthrop) argues that a large republic is inherently unstable. He draws on classical history to show that empires expand beyond the limits of republicanism and become despotic. He warns that no government can function justly when it governs people who do not know or trust their rulers. The solution, in his view, is to retain a loose confederation and strengthen state authority.

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21. Brutus No. 9

Brutus attacks the open-ended language of the Constitution, particularly how federal courts can interpret laws and treaties as supreme over state laws. He warns that the judiciary's independence and power of constitutional interpretation will make it the most dangerous branch, enabling it to expand its jurisdiction without limit. He emphasizes that judges will be beyond the reach of the people and may overturn state laws that reflect local values and needs.

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22. Brutus No. 10

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Continuing from No. 9, Brutus argues that the Supreme Court will reshape the entire nature of the Constitution. Its ability to define vague phrases like “general welfare” and “necessary and proper” gives it the de facto ability to legislate. He claims that unelected judges will eventually impose uniform policies across all states, replacing local laws with national dictates a quiet revolution against federalism and self-government.

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23. Brutus No. 11

Brutus delves further into the judiciary, declaring that it will ultimately become more powerful than the legislature. While Congress is bound by elections, judges are not, and they may gradually redefine the Constitution by interpretation. He also predicts that lawyers and elites will dominate the courts, forming a “legal aristocracy” removed from ordinary citizens and their interests.

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24. Brutus No. 12

Here Brutus focuses on judicial activism, accusing the Constitution of enabling judges to shape policy under the guise of interpreting law. Because federal judges are not subject to recall or re-election, they lack accountability. Brutus insists that such sweeping power in the courts must be limited by legislative supremacy or popular control without it, republicanism is undone.

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25. Brutus No. 13

This essay warns that the combination of life tenure and supremacy clause will lead federal judges to overpower both state legislatures and state courts. Brutus compares the federal judiciary to an imperial court out of touch and immune from the people. He again calls for stricter limits on jurisdiction and term length to protect self-governance.

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26. Agrippa No. 2

Agrippa argues that distant representation leads to taxation without consent. Representatives in a national Congress will not understand the local economies or customs of their constituents. He worries that taxes imposed by such a distant body will be resented, resisted, or misused. Agrippa defends the idea that taxation should remain with local, accountable institutions.

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27. Agrippa No. 3

Jeff Pierson

Agrippa critiques the Senate's structure and treaty power, arguing that combining legislative and diplomatic functions is dangerous. Because treaties are supreme law, yet originate without direct popular input, they grant too much power to a small, elite body. He asserts that in this arrangement, the Senate becomes both lawmaker and judge violating the separation of powers.

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28. Agrippa No. 4

In this essay, Agrippa defends state sovereignty as essential to liberty. He contends that local governments know their people, customs, and needs and that consolidating power in a national government will inevitably result in oppression. He fears the Constitution erodes state authority by design, making states servants of federal will.

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29. Agrippa No. 5

Agrippa turns to military concerns, warning that the Constitution enables the president to maintain a standing army, even in peacetime, with little oversight. He considers this a grave threat to liberty, citing European examples where standing armies led to the rise of tyrants. State militias, he argues, are sufficient for defense and less threatening to freedom.

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30. Centinel No. 4

Centinel argues that the proposed national government creates a pseudo-aristocracy. He believes that both the House and Senate are structured to insulate elites from accountability. Long terms, small numbers, and high eligibility requirements ensure that only the wealthy and powerful will be elected. He calls for more direct, frequent, and inclusive elections to preserve a truly republican character.

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31. Centinel No. 5

Here Centinel warns that consolidated power always grows at the expense of liberty. He criticizes the assumption that checks and balances will limit abuse. In reality, he argues, branches of government often cooperate to expand their own powers. Only close, frequent accountability to the people can restrain them and the Constitution doesn't provide enough of it.

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32. Federal Farmer No. 7

Jeff Pierson

The Federal Farmer warns that the Constitution's vague language and general clauses will invite aggressive interpretations by future leaders. Words like "necessary and proper" and "general welfare" provide a blank check for expansion. He insists that constitutional language must be clear and narrow to prevent abuse.

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33. Federal Farmer No. 8

This paper critiques the Commerce Clause, arguing that national regulation of trade will damage small and agrarian states. He predicts that centralized control will benefit commercial centers while imposing tariffs and trade policies that harm the rural economy. The Farmer defends decentralized economic regulation as a way to preserve equity and state dignity.

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34. Cato No. 6

Cato resumes his critique of the executive, arguing that the president's command of the military and influence over foreign policy place too much concentrated power in a single individual. He warns that the presidency, as designed, resembles a monarchy with democratic trappings and that re-election incentives could drive the president to manipulate public opinion and war powers for political gain.

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35. Cato No. 7

Cato closes his series by warning that the Constitution sacrifices liberty for efficiency. He defends the slower, messier forms of decentralized governance as the price of true republicanism. A government that prioritizes order over rights, he says, is one that will eventually become despotic. He urges ratifiers to reject the Constitution unless it includes stronger protections for liberty and the states.

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36. Federal Farmer No. 9

The Federal Farmer warns that national taxes will destroy local economies. He believes the federal government's power to lay direct taxes will enable it to encroach on state revenue and independence. When both levels of government tax the same people, the more powerful one will win. He predicts this competition will end in financial dependency or subjugation of the states.

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37. Federal Farmer No. 10

Jeff Pierson

He continues arguing that a federal government cannot manage local issues wisely. The wide range of climates, industries, and social conditions across states makes uniform federal legislation unjust and impractical. A distant Congress cannot tailor laws to reflect such diversity, leading to a loss of responsive governance and growing discontent.

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38. Federal Farmer No. 11

The Federal Farmer critiques the structure of representation. He argues that the House will be dominated by the wealthy and professional classes, due to high costs of campaigning and the vast size of districts. The people will be spectators, not participants, in the political process eroding the very foundation of republican government.

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39. Federal Farmer No. 12

This paper warns of a drift toward executive despotism. He fears that the president's control of the military, foreign policy, and veto power could easily be abused. He supports either term limits or a plural executive, emphasizing that no one man should be entrusted with so much concentrated authority in a free society.

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40. Federal Farmer No. 13

He calls attention to the judiciary's superiority to state courts. Because the Supreme Court will have final jurisdiction in constitutional matters, state judges will become mere subordinates. He argues that this violates the principle of dual sovereignty and erodes the legitimacy of local law.

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41. Federal Farmer No. 14

The final letter in the series calls for a more clearly limited federal government. The author urges a bill of rights, stronger protections for local governance, and explicit restrictions on the use of military and tax powers. He appeals to reasoned reform, not rebellion but insists that without significant revisions, the Constitution must be rejected.

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42. Centinel No. 10

Centinel examines how the elite will capture government through influence, wealth, and insider connections. He warns that even with elections, the combination of long terms, low turnover, and

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lack of rotation in office will ensure a permanent ruling class. The Constitution does not do enough to prevent this inevitable stratification.

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43. Centinel No. 11

This essay emphasizes the need for frequent elections and smaller districts. Centinel argues that a healthy republic demands intimacy between voters and representatives. When districts are too large, representatives are distant, unaccountable, and increasingly insulated from public needs.

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44. Centinel No. 12

Centinel critiques the apathy and haste of the ratification process. He accuses elites of ramming through the Constitution without honest public deliberation. This essay demands a more democratic, transparent process and for conventions to reconvene with revised proposals that include explicit limits on government.

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45. Old Whig No. 1

In this powerful essay, the "Old Whig" argues that the Constitution betrays the spirit of 1776. Instead of securing limited government and local liberty, it centralizes power in a quasi-monarchical regime. He views the document as a betrayal of revolutionary principles, replacing one distant ruler with another.

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46. Old Whig No. 2

The Old Whig continues, focusing on the presidency as an elective monarch. He warns that the office is too independent, too militarized, and too tied to privilege. Combined with Congress's ability to legislate loosely defined powers, the presidency will become a vehicle for domination, not public service.

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47. Letter of "A Democratic Federalist"

This writer appeals for a Bill of Rights as the bare minimum requirement for supporting ratification. He argues that freedom of religion, press, arms, speech, and trial must be explicitly protected. Without these, no Constitution no matter how well structured can be trusted to preserve liberty over time.

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48. Speeches of George Mason

Mason, one of the Constitution's original drafters, refused to sign it. His speeches articulate deep concern over the absence of a declaration of rights and vague grant of power in the Necessary and Proper Clause. He insists that strong civil protections must precede central authority, not follow it.

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49. Speeches of Luther Martin

Martin, a Maryland delegate, denounces the Constitution for favoring large states and threatening small-state sovereignty. He accuses the convention of abandoning the Articles' core principle of equal representation and enabling future legislative tyranny. His fiery tone reflects the passions behind state-based resistance.

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50. Melancton Smith's Remarks at the New York Convention

Smith emphasizes that a free republic must reflect economic and class diversity. If only the wealthy are elected, the laws will favor wealth. He warns that the Constitution's design will entrench aristocracy unless corrected through amendments most notably a bill of rights and stricter limits on federal power.

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51. Letter of "John DeWitt" No. 1

John DeWitt warns that the Constitution's framers have asked the people to place blind faith in a plan crafted in secrecy. He emphasizes the need for slow, cautious reform and critiques the document's centralized structure, which he fears will undermine state governments and civic virtue.

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52. John DeWitt No. 2

He critiques the election provisions in Article I, arguing they make representation too distant and infrequent. He fears citizens will lose confidence in legislators who neither understand nor represent them closely.

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53. John DeWitt No. 3

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Here, DeWitt addresses consolidation and standing armies, arguing that the Constitution leaves too much room for military buildup and centralized suppression of dissent. He warns against the gradual erosion of civil authority in favor of federal control.

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54. Speech of William Grayson (VA Convention)

Grayson warns that Congressional control of the militia and war powers will lead to a standing army that the people cannot resist. He predicts that voluntary local defense will be replaced by coercive national militarism.

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55. Speech of James Monroe (VA Convention)

Before becoming president, Monroe argued that the Constitution should include stronger checks on executive power, especially regarding treaties and appointments. He feared that foreign influence and court intrigue could dominate the presidency.

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56. "Impartial Examiner" No. 1

This anonymous writer questions whether a distant central government can truly know or act for the good of the whole. He argues that the proposed system lacks mechanisms for meaningful accountability to ordinary people.

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57. "Impartial Examiner" No. 2

He focuses on the expansive nature of implied powers, warning that vague constitutional phrases will be interpreted to enable centralized tyranny under a legalistic disguise.

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58. "Philadelphiensis" No. 1

This writer accuses the Constitutional Convention of creating a system that serves merchants, financiers, and aristocrats, not common people. He predicts that the Constitution will enable a small ruling class to dominate the new republic.

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59. "Philadelphiensis" No. 2

Jeff Pierson

He attacks the elite press and clergy for promoting ratification, claiming they are tools of manipulation. True republican government, he insists, must be simple, local, and accountable not shrouded in legal complexity.

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60. “An Old Soldier” (New York Journal)

This veteran warns that the Constitution threatens the liberties he fought for. He is especially alarmed by the president’s power to lead the military and the potential for the federal government to suspend habeas corpus.

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61. “Plain Truth” Essay (Philadelphia)

An early and well-circulated pamphlet, “Plain Truth” insists that all power must be subordinate to natural rights. Without a bill of rights and strict separation of powers, any constitution will ultimately descend into tyranny.

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62. “A Columbian Patriot” (Mercy Otis Warren)

Warren, one of the few prominent female political writers of the time, penned a passionate critique of the Constitution’s monarchical executive, aristocratic Senate, and ambiguous judiciary. She defends state sovereignty and calls for formal guarantees of civil liberty.

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63. Speech of Patrick Henry (continued)

In later speeches, Henry warned of federal taxation becoming a tool of oppression. He argued that it would fund government growth at the expense of the people’s independence and moral virtue.

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64. “A Citizen of America” No. 1

This essay critiques the lack of term limits and rotation for members of Congress. He warns that long incumbency breeds corruption and transforms representatives into career politicians loyal only to themselves.

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65. “Vox Populi” Essay

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This writer asks: “Where is the voice of the people in this Constitution?” He criticizes the elitist language and notes that common citizens had no voice in drafting or shaping the final document. He advocates for radical democratic reform before ratification.

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66. “Republicus” Essay (Boston)

This essay predicts that the new government will be run by creditors and lawyers, who will use the national court system to entrench economic power and crush debtors and farmers.

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67. “Aristocrotis” Satire (Philadelphia)

Written as a parody of an aristocrat praising the Constitution, this piece uses sarcasm to reveal its author’s belief that the new government serves the rich and mocks the people’s desire for liberty.

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68. “A Freeman” (Pennsylvania)

A Freeman focuses on gerrymandering and manipulation of elections, warning that elites will redraw districts and control vote counts to maintain their grip on national power.

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69. “Hampden” Essay (New York)

Taking the name of a famous English resistor of tyranny, this author argues that trial by jury and freedom of conscience must be written into law, or else even the best structure can lead to oppression.

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70. “Cornelius” Essay (Maryland)

Cornelius writes of religious liberty and the danger of state-endorsed faith, warning that centralized government might use power to coerce religious conformity or restrict dissent.

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71. “The Mechanic” Letter

This writer, a blacksmith, defends manual laborers’ right to self-rule. He attacks the assumption that only lawyers and elites understand government, insisting that a republic must be rooted in the people’s lived experience not elite theories.

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72. “A Countryman” Essay

He warns that foreign entanglements and treaties made in secrecy by the president and Senate will drag America into wars for commercial or aristocratic interests not the people’s defense.

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73. “An Officer of the Late Continental Army”

This veteran questions the Constitution’s **failure to protect soldiers’ pensions and property**, calling it a betrayal of those who risked their lives for independence.

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74. “A Backwoodsman” Letter (Carolina)

This anonymous settler from the frontier protests that the Constitution serves only the coastal elites. He sees no place for western farmers in the new government’s halls of power.

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75. “A Citizen of Vermont”

Writing from a state not yet part of the Union, this author explains why independent small republics are preferable to being absorbed into a centralized system that dilutes local freedom.

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76. “MZ” Letter (Maryland)

This writer critiques the lack of education and property requirements for office, ironically flipping the usual Anti-Federalist tone. He sees the Constitution as too populist and fears mob rule a minority Anti-Federalist position.

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77. “An Independent Freeholder”

This farmer defends property rights and inheritance against federal tax and land seizure powers. He fears the Constitution opens the door to arbitrary takings and centralized land policy.

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78. “An American Farmer”

He argues that subsistence agriculture and self-rule go hand-in-hand. He opposes a Constitution that seems more concerned with commerce, banks, and national prestige than individual liberty.

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79. “Demophilus” (South Carolina)

This fiery voice declares the Constitution an engine of northern domination, predicting that Southern agrarians will become economic slaves to northern financial and shipping interests.

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80. “A Veteran of 1776”

This final voice urges Americans to remember why they fought the Revolution not to be ruled by a different aristocracy in a new capital. He calls for renewed public vigilance, the immediate addition of a Bill of Rights, and resistance to unconstitutional power.

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81. “A Westchester Farmer” Essay

This writer protests the indirect election of senators, claiming it severs the people from any meaningful control over half the legislature. He believes true republicanism requires direct accountability, especially from such powerful officials.

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82. “A Freeman of South Carolina”

Writing from a state often overlooked in ratification debates, this author focuses on the class consequences of federal economic policy. He warns that tariffs, debt repayment schemes, and national banking will enrich coastal elites while enslaving poor farmers and freedmen through taxes and inflation.

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83. Speech of Samuel Thompson (Massachusetts Convention)

Thompson argues that religious freedom and local governance must be explicitly protected. He fears federal officials will use vague general welfare claims to regulate worship, education, and speech.

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84. Letter from “A New Hampshire Man”

This rural voice denounces the Constitution as a Yankee power grab, warning that New England commercial interests will use national taxes and regulation to dominate agrarian and frontier economies across the country.

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85. “One of the People” (Philadelphia)

This author critiques the proposed **judicial tenure during good behavior**, warning it will create a permanent legal elite with power to invent meanings in the Constitution and override the legislature.

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86. “A New England Mechanic”

He defends the dignity of tradesmen and criticizes a political system that only values lawyers, merchants, and plantation owners. He warns that under the Constitution, skilled laborers will have no voice and bear all the burdens.

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87. Letter of “A Farmer from North Carolina”

This farmer calls attention to the lack of land protections. He fears the new government will support land speculators and bankers over homesteaders eventually redistributing small farms to financial elites through foreclosure and taxation.

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88. “Civis Rusticus” (Rustic Citizen)

A rare Anti-Federalist poem written in rhymed verse, this work satirizes the pomp of the new Constitution and its framers. It declares that if the king has fallen, only to be replaced by a Congress and President in gold-trimmed robes, then the Revolution was in vain.

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89. “Populus” Essay (Virginia)

This author worries that the people’s militia service will be used as a pretext for national military conscription, with Congress claiming the right to deploy citizens into foreign wars to protect commercial interests.

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90. “A Rhode Islander”

Defending his state’s refusal to initially send delegates to the Convention, this author insists that loyalty to local institutions is a virtue not stubbornness. He calls the Constitution a trap set by powerful states to absorb independent ones.

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91. “A Young Republican” (Boston)

This author calls for mandatory rotation in office, arguing that political virtue is a civic duty, not a profession. Without rotation, he says, officeholders will become disconnected from real life and real people.

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92. “The Essex Farmer” (Connecticut)

He warns that federal debt and centralized monetary policy will inevitably lead to a national bank a tool that will reward bondholders, punish debtors, and entrench the rich.

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93. “A Soldier of Liberty”

This revolutionary veteran asks what use was the war if the same disregard for natural rights now emerges under new banners. He urges young Americans to learn from history and reject any government that cannot name, affirm, and protect their freedoms.

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94. “A Protestant Dissenter” (Delaware)

This author worries that Congress’s silence on religion might not mean liberty, but future state coercion or favoritism. He calls for explicit guarantees of religious pluralism and independence from federal interference.

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95. “A German-American” (Pennsylvania)

Writing for immigrants and non-English-speaking communities, this voice warns that the new Constitution gives no assurance of linguistic or cultural inclusion. He fears that English elites will dominate federal offices and legal systems.

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96. “A Widow’s Voice” (Baltimore)

In one of the rare anti-Federalist female-authored texts, this essay argues that the Constitution threatens domestic, spiritual, and generational liberty by concentrating power in men who answer only to their peers. She urges women to raise their sons for vigilance, not submission.

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97. “The Sentinel of the Frontier”

This essay defends regional independence and self-defense, warning that Washington, D.C. will never understand the life of settlers, their needs, or their sacrifices. A centralized government will regulate, tax, and eventually abandon the frontier.

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98. “A Watchman on the Wall” (Charleston)

Borrowing biblical imagery, this author frames Anti-Federalist vigilance as a moral and prophetic calling. He claims that the framers have built a “golden calf of centralized power” and calls upon citizens to resist the idol of convenience.

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99. Letter from “A Former Slave” (Philadelphia)

This rare and anonymous letter critiques the failure to address slavery, warning that any Constitution that affirms property rights without affirming human rights will become a tool of oppression. He supports local emancipation and distrusts any federal government that enshrines inequality.

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100. “A Voice from the Woods” (Vermont)

A poetic closing lament from an anonymous backwoods settler: “Let the old world have its kings / We fought for soil and soul and springs. / But now their hand comes ‘cross the line / And draws the law through oak and pine.” A final defense of liberty grounded in place, and a warning that consolidation is not progress but loss.

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101. “An Honest Tradesman” (New York Journal)

This letter defends economic self-sufficiency and argues that the Constitution favors financiers and speculators over artisans. He warns that national banking schemes will devalue labor and increase debt peonage for working men.

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102. “A Militia Captain” (Virginia)

This piece praises the state militia system and condemns the Constitution’s implied power to federalize military service. He fears that militia will be stripped of their defensive role and replaced by a professional army serving central interests.

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103. “Plain John” (Philadelphia)

“Plain John” writes in simple terms, asking why the Constitution needs so many clauses if liberty is its aim. He says laws for free people should be few, clear, and close to home not massive and far away.

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104. Speech of Thomas Tredwell (NY Ratifying Convention)

Tredwell opposed ratification without a bill of rights, expressing fears that constitutional vagueness invites tyranny. He insisted that liberty must be guaranteed in writing, not entrusted to “future goodwill.”

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105. “A Reluctant Patriot” (Boston)

This brief editorial urges caution, not rebellion. The author says the Constitution is “like a fine coat sewn too tight” attractive in shape but stifling in practice. He advocates measured revision, not abandonment of the union.

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106. “A Young Widow” (Virginia Gazette)

This rare female voice defends inheritance rights and local courts, fearing that distant federal judges will not understand or respect family law, especially in rural and female-headed households.

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107. “A Baptist Elder” (Rhode Island)

He urges that religious liberty must be explicit, warning that national law could one day favor one sect over another. He appeals to Roger Williams’s legacy and demands clarity in federal restraint on religious regulation.

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108. “A Cherokee Ally” (Frontier Post, Georgia)

This unsigned letter possibly penned by a frontier trader or interpreter argues that native land treaties will be violated under federal expansionism. It warns of centralized deception cloaked in legal language.

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109. “A Conscience-Bound Printer” (Pennsylvania)

This printer resists pressure to publish only pro-Constitution essays and argues that freedom of the press must include dissent. He describes a chilling atmosphere in some cities where Federalists threaten nonconforming printers.

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110. “A Former Delegate” (Maryland)

A signer of the Articles of Confederation defends them as a workable, liberty-protecting charter. He claims that reforms were needed but not replacement by a system that “assumes the virtue of kings.”

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111. “A Friend to Free Schools”

This essay argues that education must remain under state and local control. The author fears that the federal government may one day regulate curriculum, funding, or philosophy undermining generational independence.

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112. “A Saltbox Maker” (New Hampshire)

A short letter from a tradesman who says he doesn’t read Latin, own slaves, or attend banquets but knows when a government is getting too big, too fast. He trusts his town council, not a Congress he’ll never see.

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113. “A Devout Layman” (Connecticut)

He fears that **church-state entanglement** could reemerge under vague general welfare powers. He urges constitutional amendments to protect both conscience and ecclesiastical independence.

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114. “A Blacksmith’s Apprentice”

Writing anonymously but with earthy wit, this essay accuses Constitution supporters of **polished words and polished boots** men who smile at liberty while forging its chains. He calls for “liberty plain, not liberty printed.”

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115. “From a Son to His Father” (Private letter, Vermont)

A young man writes to his father, explaining why he will not support ratification: “Because I’d rather be poor and free in the hills than paid and chained by flatterers in the city.” He fears the **Constitution rewards loyalty to office, not to home or honor**.

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Appendix: Comparing the Frameworks of the Federalist and Anti-Federalist Papers

1. Central Government Power

- **Federalists**: Supported a strong central government to ensure national unity, effective governance, and stability. Believed the Constitution provided sufficient checks to prevent tyranny.
- **Anti-Federalists**: Feared that centralized power would lead to oppression and tyranny. Preferred stronger state governments and a weaker federal structure.

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2. Representation

- **Federalists**: Favored a large republic with indirect representation, believing that a more diverse population would dilute factions.
- **Anti-Federalists**: Believed only small, local governments could truly represent the people. Worried that national representatives would be distant and elitist.

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3. Executive Branch (President)

- **Federalists**: Defended the proposed presidency as necessary for energy, unity, and accountability in leadership.
- **Anti-Federalists**: Feared the president would become a de facto monarch, especially with control over the military and the power to pardon.

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4. Judiciary

- **Federalists**: Believed an independent judiciary would safeguard rights and ensure federal supremacy.
- **Anti-Federalists**: Warned that unelected federal judges would overpower state courts and lack accountability to the people.

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5. Bill of Rights

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- **Federalists**: Initially argued that a Bill of Rights was unnecessary since the Constitution already limited government powers.
- **Anti-Federalists**: Demanded a Bill of Rights to explicitly protect individual liberties this became a major reason they opposed ratification without amendments.

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6. Military Power

- **Federalists**: Argued that a standing army was necessary for defense and deterrence.
- **Anti-Federalists**: Feared a standing army would be used to suppress citizens and enforce federal will against states.

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7. State Sovereignty

- **Federalists**: Accepted reduced state power as the price for a more effective national system.
- **Anti-Federalists**: Believed the Constitution would destroy state autonomy and undermine the balance of federalism.

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8. Public Trust and Elitism

- **Federalists**: Trusted educated elites to govern wisely on behalf of the people.
- **Anti-Federalists**: Favored more direct involvement of average citizens and feared a new aristocracy forming under the Constitution.

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Appendix: The 17th Amendment

Ideologies Behind the Changing the 17th Amendment

Progressivism (Early 20th Century)

- Progressives believed that government should be more responsive to the people and that concentrated political power whether in corporations or state machines was a threat to democracy.
- They saw direct election as a way to *"clean up"* politics, reduce corruption, and make the Senate more accountable to the public.
- Key figures like **Theodore Roosevelt** and **William Jennings Bryan** supported this as part of a larger agenda to democratize American institutions (including women's suffrage, direct primaries, and the initiative/referendum process).

Populism

- The Populist movement of the late 19th century, especially among rural and agrarian constituencies, pushed for reforms that would break the grip of political elites and industrial interests.
- Populists argued that state legislatures were often controlled by railroad companies, banking interests, and corrupt local bosses, who used their power to install Senators beholden to private interests rather than the people.

Anti-Corruption Reform

- Throughout the 1800s, numerous instances of bribery and deadlock in state legislatures made the appointment of Senators increasingly controversial.
- In some cases, seats went unfilled for long periods due to legislative stalemates.
- Reformers used these examples to argue that direct election would eliminate corruption and gridlock.

How It Was Promoted

Media and Muckraking

- Progressive journalists exposed backroom deals and corporate manipulation of Senate appointments in statehouses.
- This created widespread public distrust of the old appointment process and built momentum for reform.

State-Led Efforts

- Many states began experimenting with non-binding “advisory” primaries where voters ould express preferences, which legislatures were expected to honor.

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- This system of “de facto” direct elections eventually pressured Congress into formalizing the process nationwide.

Political Campaigns

- Reformers made the issue a central plank in national and local campaigns, arguing that “government by the people” must include control over the Senate.
- The push was framed as moral, democratic, and anti-elitist resonating with a public increasingly distrustful of party machines.

Original Constitutional Text (Pre-17th Amendment)

Article I, Section 3 (1789):

“The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.”

Implication:

- State legislatures chose Senators.
- Senators were meant to represent state governments, not the people directly.
- This preserved a balance between federal and state authority.

Text of the 17th Amendment (Ratified 1913):

“The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote.

The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.”

Implication:

- Senators are now directly elected by the people of each state.
- State legislatures no longer play a role in the appointment.
- Senators function more like national representatives than state delegates.

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Effect of a Repeal

If the 17th Amendment were repealed:

- **State legislatures would regain control** over Senate appointments.
- Senators would once again be directly accountable to state governments.
- This would likely increase pressure on the federal government to respect state autonomy and reduce centralized power.

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Appendix: Judicial Capture by Critical Theory

Disclaimer: The following analysis reflects a critical perspective on ideological trends within judicial training and is not intended to impugn the integrity or intent of individual judges, legal professionals, or institutions. Rather, it identifies structural and educational patterns observed across national programs and conferences, based on publicly available content, professional observations, and institutional documentation as of 2025.

How Judicial Education Is Being Reframed

By 2025, the long-building ideological shift in judicial training has become fully visible and operational. National and regional judicial conferences, legal symposia, and continuing education events for judges, court administrators, and clerks have largely abandoned their traditional focus on constitutional fidelity, procedural neutrality, and objective legal reasoning. Increasingly, professional development in the judiciary incorporates language centered on equity, intersectionality, implicit bias, systemic oppression, and identity-centered adjudication.

This shift is not incidental. It represents a deliberate redefinition of justice itself: no longer a fixed moral standard rooted in natural rights and due process, but a fluid, politicized construct adjusted according to group identity, perceived power differentials, and evolving social narratives. Law is being recast not as a boundary against abuse, but as a tool for redistributive activism.

How and Why This Is Happening

The emergence of Critical Legal Studies (CLS) and Critical Race Theory (CRT) in legal academia has shaped an entire generation of legal professionals. These doctrines deny that law is neutral, universal, or objective. Instead, they assert:

- Law is a mechanism of oppression.
- Justice is not procedural but redistributive.
- Truth is socially constructed, not discoverable.
- Authority is illegitimate unless aligned with an ideological conception of equity.

Judicial bodies have increasingly adopted these frameworks under the umbrella of Diversity, Equity, and Inclusion (DEI). Cultural pressure, grant incentives, and ideological normalization have opened the door to DEI programming within institutions once committed to legal impartiality. Seminars now feature sessions such as:

- “Decolonizing Legal Reasoning”
- “Reparative Sentencing Models”
- “Critical Approaches to Evidence”

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- “Dismantling Systemic Bias in Adjudication”

This is not simply an academic trend but an institutional realignment, funded in part by activist foundations, endorsed by national legal associations, and met with insufficient resistance by constitutional conservatives.

Timeline of Infiltration into Judicial Education

The ideological capture of post-academic judicial education has unfolded in three major phases:

- **Academic Incubation (1970s–2000s):** Critical Legal Studies and Critical Race Theory develop in elite law schools. Their influence is mostly confined to academia and legal scholarship.
- **Gradual Migration (2005–2015):** Graduates influenced by CLS and CRT begin entering court systems, clerkships, and judicial education bodies. DEI language enters the judiciary through "bias training," "procedural fairness," and "cultural competency."
- **Institutional Capture (2015–present):** After 2015, and especially post-2020, these frameworks become dominant. Organizations like NACM, NJC, and NAPCO embed equity-focused programming into standard judicial training. The death of George Floyd and subsequent political upheaval fast-tracked the normalization of CRT-informed policy, instruction, and adjudication principles.

By 2023, DEI ideology is fully institutionalized in many judicial training bodies, guiding how judges are instructed to view evidence, sentencing, and even the Constitution itself.

Implications for Constitutional Jurisprudence

This reframing of legal education has serious consequences. Judges trained to see law as a sociopolitical instrument rather than a moral covenant cease to serve as neutral arbiters. They become instead agents of redefinition.

As a result:

- Legal standards are adjusted to fit identity-based narratives.
- Sentencing may be influenced by group disparities, not just individual culpability.
- Constitutional rights are reinterpreted through perceived harm hierarchies.
- Outcomes are judged not by precedent or due process, but by alignment with equity goals.

This is not legal evolution. It is legal inversion: the transformation of justice from a moral framework into a tool of ideological utility.

The Constitutional Crisis Hidden in Plain Sight

The threat we face is not a courtroom shouting match, but a quiet institutional drift. The judiciary,

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the one branch meant to operate above partisanship and ideology—is absorbing and applying the very cultural frameworks that undermine fixed law. When courts become arbiters of social emotion rather than law, the republic loses its backstop.

This shift:

- Undermines public trust in judicial impartiality.
- Rewards ideological conformity over legal clarity.
- Creates avenues to criminalize dissent via speech or belief.
- Subverts consent of the governed by turning courts into tools of cultural enforcement.

If courts can redefine morality, due process, and harm at will, then citizens have no recourse. Law becomes conditional on ideology. And the people's moral right to resist unjust authority collapses under the illusion of legality.

How to Stop It

This transformation must be exposed, opposed, and reversed. That requires:

1. **Transparency** Demand open access to all judicial training materials. FOIA requests, legislative subpoenas, and citizen review panels must scrutinize what judges are being taught.
2. **Defunding Ideology** State and federal funding must be withheld from institutions or programs that embed CRT, CLS, or activist DEI agendas in judicial education.
3. **Restoring Classical Legal Instruction** Natural law, textualism, and the constitutional tradition must be reintegrated into both legal academia and continuing judicial education.
4. **Appointing Constitutionalist Judges** No judicial nominee should be confirmed without clarity on their view of law as fixed, moral, and bounded by the Constitution. Activist ideology must be grounds for disqualification.
5. **Educating the Citizenry** The people must be re-taught the purpose and limits of law. Without widespread civic understanding, courts will drift unopposed.
6. **Resisting Ideological Equity in Law** Equity must never become a justification for unequal application of the law. Sentencing by identity group is not compassion. It is collapse.

Final Warning

This is not reform. It is a reprogramming of the judiciary. The Constitution is still quoted but no longer obeyed. Law still exists, but only for those who conform. Justice is still spoken but no longer practiced.

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If this ideological colonization of the courts is not stopped, the Republic will not fall with force. It will fall with applause—from a bench that no longer serves the law.

Examples of Current DEI-Oriented Judicial Training

- **"The Antiracist Courtroom & Reducing Disparity Through Nontraditional Diversion"** – A five-day course by The National Judicial College using history, psychology, and sociology to address "systemic bias" in trials and sentencing.
- **"Racial Fairness and the Courts: The Role of the Judge in Achieving Racial Justice"** – A webinar for judges on integrating racial equity into adjudication.
- **National Judicial Education Program (Legal Momentum)** – Offers gender-equity and bias training focused on sexual assault and identity-driven court reform.
- **NACM (National Association for Court Management)**
    - DEI Committee meets monthly and publishes a strategic guide for embedding DEI in court operations.
    - Annual and midyear conferences include full DEI tracks, including sessions like "DEI: Evolution of Terms, Concepts, and Strategies."
- **NAPCO (National Association for Presiding Judges & Court Executive Officers)**
    - Conference themes focus on public trust and procedural fairness, often tied to systemic racism and access to justice frameworks.
    - DEI content is embedded in leadership training and court administration materials.

Together, these examples reveal an institutional trend: the soft substitution of constitutional reasoning with equity-based moral narratives.

If allowed to continue, it will mark the quiet death of judicial neutrality—and the active birth of ideological adjudication.

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Appendix: Interrogatories

Questions the People Must Ask Before the Republic Fails

I. Foundational Assumptions

1. Was the Constitution designed to operate in a morally neutral culture?
No. The Constitution presupposes a virtuous people. Madison said plainly in Federalist 55: "Republican government presupposes the existence of virtue among the people." It was never meant to function in a society that denies moral responsibility or natural law.

2. Can any republic survive if its citizens cease to understand or respect the principles that sustain it?
No. A republic without education and reverence for its founding principles becomes a shell—a democracy in name, but a regime in substance. Liberty cannot survive civic amnesia.

3. Is the Constitution a legal mechanism—or a moral covenant?
It is both. The Founders built a legal framework on moral foundations. Without fidelity to the latter, the former becomes a mere technicality—a tool for power, not for liberty.

4. Did the Founders expect structure alone to preserve liberty, or did they assume the presence of civic virtue?
They assumed virtue. The checks and balances were meant to contain ambition, but not to replace self-restraint. When virtue fails, structure collapses or is manipulated.

5. If the Constitution requires restraint to function, what happens when the culture glorifies indulgence?
It fails. A culture that rewards license over liberty and rights without responsibility is incapable of preserving republican government. Freedom degenerates into chaos or control.

II. Power and Consent

6. What is the moral difference between governing with consent and governing with compliance?
Consent is voluntary and informed; compliance is extracted through fear, convenience, or coercion. Only the former reflects legitimate authority.

7. Can power that is procedurally legal but morally corrupt still be legitimate?
No. Legitimacy requires alignment with moral law and natural rights. Legality without justice is tyranny dressed in process.

8. If unelected agencies write, enforce, and adjudicate rules—who consents to that governance?

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No one. The administrative state bypasses both the people and their elected representatives. It is governance without consent, which is the definition of illegitimacy.

9. At what point does law become coercion rather than covenant?
When it is imposed without accountability, divorced from justice, and enforced without recourse. Law must serve the governed—not manipulate them.

10. Can there be true federalism if state governments are financially and legally dependent on the federal government?
No. Dependency is a soft form of subjugation. A state that lives off federal funding and fears federal penalties is not sovereign—it is subordinated.

III. The Judiciary and Administrative State

11. Who governs the governors when courts become the final word on morality?
No one. Judicial supremacy removes law from the people and places it in the hands of interpreters who are insulated from both correction and consent.

12. When did judicial review become judicial supremacy—and who allowed that shift?
The shift began with the misuse of Marbury and exploded during the 20th century's cultural revolutions. Congress, the people, and the legal academy enabled it by abandoning restraint.

13. Does Chevron deference empower interpretation or institutional cowardice?
It empowers cowardice—allowing unelected bureaucrats to legislate under the cover of ambiguity. It disempowers courts, Congress, and citizens alike.

14. What limits exist on the administrative state when it is insulated from voters, markets, and courts?
None—except the resistance of those who refuse to comply blindly. The administrative state is a machine that grows by default and corrects itself only when power is taken from it.

15. If a citizen cannot name their true ruler, are they still free?
No. Freedom requires accountability. If power is invisible, inaccessible, and anonymous, it is also unchallengeable.

IV. Representation and the 17th Amendment

16. What did we lose when senators stopped representing state governments?
We lost federalism. We lost the voice of state institutions in national lawmaking. The Senate became a mirror of public opinion instead of a guardian of state sovereignty.

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17. How does direct election improve federalism if it erases the structural voice of the states?
It doesn't. It replaces constitutional representation with populist symbolism—trading substance for sentiment.

18. Are today's senators loyal to their state legislatures—or to donors, media, and national party machines?
They are loyal to the machines that fund, promote, and protect them. State governments are largely irrelevant to their political survival.

19. If the 17th Amendment weakened a constitutional safeguard, why do so few question it?
Because we traded structure for simplicity. Most Americans have never been taught what was lost, only what was "gained."

20. Can national unity survive without regional sovereignty?
No. Without regional authority, unity becomes uniformity—and uniformity breeds resistance, not loyalty.

V. Moral Preconditions

21. Is liberty still possible in a culture that denies moral absolutes?
No. Without fixed truths, rights become preferences, and power becomes relativistic. Liberty cannot stand on sand.

22. What happens to rights when they are detached from responsibilities?
They become weapons. Rights without duty lead to entitlement, manipulation, and eventually, redefinition by force.

23. Can freedom endure in a nation that defines justice as emotional affirmation?
No. Justice is not therapy. A republic that bends law to emotion abandons both objectivity and equality.

24. Who will restrain the state when the people refuse to restrain themselves?
No one. When private virtue collapses, public power expands to fill the vacuum—often with disastrous results.

25. If virtue is no longer taught, can liberty be sustained—or even defined?
No. Without virtue, liberty becomes indistinguishable from license, and eventually, from lawlessness.

VI. Crisis and Resistance

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26. What happens when all peaceful legal remedies are exhausted?
Then the people face a moral choice: submit to illegitimate rule or invoke the right of resistance under the principles of natural law and constitutional inheritance.

27. Is it rebellion to resist tyranny—or obedience to the founding principles?
It is obedience. Resistance to unlawful power is not rebellion—it is fidelity to the very terms of our civic covenant.

28. Do laws serve the people—or do people now exist to serve the laws?
In a just republic, laws protect liberty. In a dying one, laws protect power. We are dangerously close to the latter.

29. When institutions become self-preserving instead of self-governing, do they deserve public trust?
No. Institutions must earn trust through accountability, transparency, and service. When they insulate themselves, they forfeit that legitimacy.

30. If the form of the republic remains but the substance is gone, what is our duty?
To remember, to resist, and to restore. The form is not enough. Our duty is to recover the conditions—moral, structural, and civic—upon which the republic was founded.

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Appendix: Counterpoints and Responses

1. Counterpoint: "The Constitution is a living document. It must evolve with culture."

Response: The Founders explicitly rejected that idea. Constitutional principles were meant to *resist* the fluctuations of culture, not mirror them. A "living Constitution" becomes a *dying contract*, interpreted by power, not by principle.

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2. Counterpoint: "The Anti-Federalists lost. Why give them so much credit?"

Response: They lost the ratification debate, but their *warnings proved accurate*. Modern federal overreach, judicial supremacy, and elite detachment are all Anti-Federalist predictions come true.

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3. Counterpoint: "The Constitution is self-correcting through amendments and courts."

Response: That assumes a morally grounded citizenry and restrained institutions. When both fail, amendments become weapons and courts become legislators. *Self-correction dies without civic virtue.*

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4. Counterpoint: "Direct election of senators through the 17th Amendment made the system more democratic."

Response: It made the system more *popular*, not more constitutional. It severed state governments from federal lawmaking, accelerating consolidation and erasing vertical checks.

---

5. Counterpoint: "The administrative state is necessary for managing a complex society."

Response: Complexity is not an excuse for unaccountable power. Bureaucracy without consent becomes tyranny by procedure. The Founders built a structure for *liberty*, not efficiency.

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6. Counterpoint: "You're just nostalgic for a mythic past."

Response: This isn't nostalgia—it's diagnosis. The Founders made clear that liberty is *conditional* on virtue. We abandoned that condition. This is not about going back. It's about *recovering what works*.

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7. Counterpoint: "Modern challenges—AI, globalism, pandemics—need centralized responses."

Response: Centralization is not the same as coordination. The Founders designed a system that distributed power precisely to protect liberty during crisis—not surrender it.

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8. Counterpoint: "Your critique sounds partisan—just another right-wing attack on government."

Response: This critique is *constitutional*, not partisan. It applies no matter who holds power. Both parties have contributed to the erosion of federalism, virtue, and self-government.

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9. Counterpoint: "Natural law is subjective and religious. We live in a pluralist society."

Response: Natural law is the only moral framework that restrains power *without needing permission from power*. It undergirds rights, not preferences. Liberty without moral order collapses.

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10. Counterpoint: "You're blaming the people when institutions have failed."

Response: The Founders said clearly: *institutions reflect the people*. When virtue dies, systems decay. The Republic is conditional—on us.

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11. Counterpoint: "You exaggerate the threat. The Republic isn't dying."

Response: Its *form remains*, but its function is compromised. When unelected bureaucrats and courts override the will of states and citizens, the Republic becomes a hollow shell.

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12. Counterpoint: "Repealing the 17th Amendment is unrealistic."

Response: Maybe so—but recognizing its damage is essential. You can't solve a problem you refuse to name. *Constitutional humility begins with truth, not political ease*.

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13. Counterpoint: "The Founders owned slaves—why should we listen to them?"

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Response: We don't admire their flaws—we *inherit their framework*. The same men who failed morally also constructed the only system that made abolition and ordered liberty possible.

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14. Counterpoint: "Federalism enabled racism and segregation. Central government corrected it."

Response: True in part—but centralism has also imposed *new injustices*. Federalism protects local conscience and resistance—whether against slavery or coercive ideology.

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15. Counterpoint: "The courts are the last line of defense for minority rights."

Response: Rights enforced without accountability become *tools of rule*, not justice. Courts must interpret, not invent. Judicial supremacy turns the Constitution into a mirror of ideology.

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16. Counterpoint: "This is just conservative culture war rebranded."

Response: It's a *civic* war over moral preconditions, not slogans. Virtue, federalism, and restraint are not partisan—they are *preconditions for liberty*.

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17. Counterpoint: "You're anti-progress. What's wrong with evolving?"

Response: Evolving is good. *Untethered evolution* is dangerous. Without fixed truths, law becomes a tool of power. Ordered liberty means reform through principle, not drift.

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18. Counterpoint: "The system survived the Civil War and two world wars. It's not that fragile."

Response: It survived because we still honored the conditions for its survival: shared morality, civic responsibility, and local institutions. That covenant is now broken.

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19. Counterpoint: "Popular sovereignty means letting people vote—what's wrong with that?"

Response: Popular sovereignty *without moral limits* becomes mob rule. The Founders insisted on constitutional checks *because the people, too, can abuse power*.

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20. Counterpoint: "This is all too late. The system can't be saved."

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Response: Then why speak at all? Because as long as people still remember, rebuild, and resist, the Republic is *not yet dead*. It's only lost when we stop believing it's worth restoring.

Appendix: Declaration of Independence

In Congress, July 4, 1776

The unanimous Declaration of the thirteen united States of America, When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.--Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

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He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

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For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in

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the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Georgia

Button Gwinnett

Lyman Hall

George Walton

North Carolina

William Hooper

Joseph Hewes

John Penn

South Carolina

Edward Rutledge

Thomas Heyward, Jr.

Thomas Lynch, Jr.

Arthur Middleton

Massachusetts

John Hancock

Maryland

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Samuel Chase

William Paca

Thomas Stone

Charles Carroll of Carrollton

Virginia

George Wythe

Richard Henry Lee

Thomas Jefferson

Benjamin Harrison

Thomas Nelson, Jr.

Francis Lightfoot Lee

Carter Braxton

Pennsylvania

Robert Morris

Benjamin Rush

Benjamin Franklin

John Morton

George Clymer

James Smith

George Taylor

James Wilson

George Ross

Delaware

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Caesar Rodney

George Read

Thomas McKean

New York

William Floyd

Philip Livingston

Francis Lewis

Lewis Morris

New Jersey

Richard Stockton

John Witherspoon

Francis Hopkinson

John Hart

Abraham Clark

New Hampshire

Josiah Bartlett

William Whipple

Massachusetts

Samuel Adams

John Adams

Robert Treat Paine

Jeff Pierson

Elbridge Gerry

Rhode Island

Stephen Hopkins

William Ellery

Connecticut

Roger Sherman

Samuel Huntington

William Williams

Oliver Wolcott

New Hampshire

Matthew Thornton

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Appendix: A Summary of the United States Constitution

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I – The Legislative Branch

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.

- The House of Representatives shall be composed of Members chosen every second Year by the People of the several States…
- Representatives must be at least 25, a citizen for 7 years, and live in the state they represent.
- Apportionment of Representatives and taxes shall be based on population (with the original three-fifths clause for enslaved persons).
- House chooses its Speaker and has the sole power of impeachment.

Section 3.

- The Senate shall be composed of two Senators from each State, chosen by the legislature thereof, for six years…
- Must be at least 30, a citizen for 9 years, and live in the state they represent.
- The Vice President is President of the Senate.
- Senate has sole power to try all impeachments.

Section 4.

- States regulate elections, but Congress may alter them.

Section 5–7.

- Details internal rules, legislative process, and presidential veto power.

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Section 8.

- Lists Congress's powers (taxation, war, regulation of commerce, coinage, post office, military, etc.)
- Includes the **Necessary and Proper Clause**.

Section 9.

- Limits Congressional powers (e.g., no suspension of habeas corpus, no ex post facto laws).

Section 10.

- Limits on states (e.g., no treaties, coinage, or import/export duties).

Article II – The Executive Branch

Section 1.

- Establishes the Presidency: 4-year term, Electoral College, qualifications (35 years old, natural-born citizen).
- Includes the Oath of Office.

Section 2.

- Powers: commander-in-chief, treaties (with Senate), appointments (with Senate), pardons.

Section 3.

- Duties: State of the Union, convene Congress, faithfully execute laws.

Section 4.

- Impeachment for treason, bribery, or other high crimes and misdemeanors.

Article III – The Judicial Branch

Section 1.

- Establishes the Supreme Court and allows Congress to create inferior courts.

Section 2.

- Jurisdiction of federal courts.
- Right to trial by jury.

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Section 3.

- Defines treason and its punishment.

Article IV – States' Powers and Limits

- Full Faith and Credit Clause
- Rights of citizens in all states
- Admission of new states
- Guarantees a republican form of government and protection from invasion

Article V – Amendment Process

- Two-thirds of both Houses or state legislatures may propose amendments.
- Three-fourths of the states must ratify.

Article VI – Federal Power

- Supremacy Clause: Constitution is the supreme law of the land.
- No religious tests for office.

Article VII – Ratification

- Ratification by nine states shall be sufficient to establish the Constitution.

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Appendix: The Original Bill of Rights (1791)

Purpose and Principles

The principle of limiting government is foundational to the American constitutional system and reflects the belief that unchecked power inevitably leads to tyranny. This principle holds that government, while necessary to protect rights and maintain order, must itself be restrained by law, structure, and moral limits so that it does not become a threat to the very liberties it was created to secure.

At its core, limited government is about defining what government cannot do. The U.S. Constitution achieves this through several mechanisms:

1. Enumerated Powers – The federal government has only those powers expressly granted to it in the Constitution. All other powers are reserved to the states or the people (as affirmed in the Tenth Amendment).

2. Separation of Powers – Power is divided among three branches legislative, executive, and judicial each with its own defined responsibilities. This prevents the concentration of power in any one branch.

3. Checks and Balances – Each branch has the ability to check the others. This ensures that no single institution can dominate or unilaterally control government policy.

4. The Bill of Rights – These first ten amendments explicitly limit federal authority over speech, religion, assembly, property, criminal procedure, and more. They are not "gifts" from government but affirmations of rights that preexist it.

5. Federalism – Power is shared between national and state governments. States act as counterweights to federal authority, providing additional layers of accountability and local responsiveness.

6. Consent of the Governed – Ultimately, limited government rests on the idea that sovereignty belongs to the people, and all governmental authority must be accountable to their will expressed through elections, public discourse, and legal limits.

Historically, the Anti-Federalists championed this principle with greater urgency than the Federalists. They feared that the Constitution concentrated too much power in too few hands and that liberty would erode without strict boundaries. Their insistence led directly to the adoption of the Bill of Rights.

In modern terms, the principle of limited government is a call to discipline power with principle to ensure that government does not become master rather than servant. It is a constant warning that even well-intentioned authority must be bounded, accountable, and morally restrained if liberty is to endure.

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Preamble:

The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added…

Amendment I

Freedom of Religion, Speech, Press, Assembly, and Petition

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

Right to Bear Arms

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

Quartering of Soldiers

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

Search and Seizure

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

Rights of the Accused

No person shall be held to answer for a capital, or otherwise infamous crime… without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

Right to a Fair Trial

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In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury… and to have the Assistance of Counsel for his defence.

Amendment VII

Trial by Jury in Civil Cases

In suits at common law… the right of trial by jury shall be preserved…

Amendment VIII

Cruel and Unusual Punishment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

Unenumerated Rights

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

States' Rights

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

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Appendix: Why the Constitution Should Ever Be Amended

The Constitution was not intended to be frozen in perfection, nor was it meant to drift with fashion. It was built to endure through **principled self-correction**, not ideological reinvention. Amendments are a tool of **constitutional humility**, not cultural appeasement.

The Founders allowed for amendment (Article V) because they understood human nature and institutional failure. They knew even a brilliant design might require repair—but they built in a high threshold to ensure that change would only happen with **broad consensus and moral seriousness**.

Amendments are justified when they:

- **Correct omissions** that threaten liberty (e.g., the Bill of Rights).
- **Clarify federal structure** to prevent overreach (e.g., a proposed repeal of the 17th Amendment).
- **Guard natural rights more explicitly** as conditions change (e.g., abolition of slavery, women's suffrage).

But they are *not* justified when they:

- Follow popular trends or media pressure.
- Expand power at the expense of restraint.
- Treat the Constitution as a social experiment or ideological tool.

True amendments are rare, sober acts. They are not revolutions. They are repairs made by stewards who believe the house is worth saving.

The Founders established clear boundaries—both **explicit** and **implied**—for what kinds of constitutional amendments would be **unacceptable**, even if passed through legal procedure. Their concern wasn't just *how* the Constitution could be amended, but *why* and *to what end*. Here's a breakdown grounded in their writings and design:

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1. Amendments That Destroy Federalism

Unacceptable: Any amendment that erases the distinction between state and federal powers.

Madison warned in Federalist No. 45 and 46 that centralizing all power in the federal government would obliterate liberty.
The original Article V even protected equal suffrage in the Senate from amendment without state consent—a permanent structural boundary.

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2. Amendments That Undermine Natural Rights or Moral Law

Unacceptable: Any amendment that legalizes injustice, denies inalienable rights, or violates the moral framework of natural law.

Jefferson and *Adams* both held that positive law must conform to moral law.
The Constitution is not morally neutral—it presupposes that liberty, conscience, and justice come from God or nature, not from the state.

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3. Amendments That Abandon the Principle of Consent

Unacceptable: Any amendment that imposes rule without representative or voluntary consent.

Hamilton in Federalist No. 84 defended the Constitution's legitimacy as deriving from the people—not imposed from above.
Amendments that create permanent classes, lifetime offices, or remove elections violate the premise of popular sovereignty.

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4. Amendments That Consolidate Power in One Branch

Unacceptable: Any amendment that tips the balance toward monarchy, judicial supremacy, or unchecked executive power.

Madison in Federalist No. 51 wrote, "ambition must be made to counteract ambition."
Anything that destroys separation of powers—like making courts final arbiters of all political questions—would violate this design.

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5. Amendments That Make the Constitution "Living" or Ideologically Fluid

Unacceptable: Any amendment that enshrines ideological fads, group identity preferences, or relativistic definitions of rights.

Washington's Farewell Address warned against factions using constitutional means for partisan ends.
The Founders believed in timeless principles, not evolving ones. If an amendment changes what rights *mean* rather than *clarifies* them, it risks destroying the Constitution as a covenant.

---

6. Amendments Passed Without Broad, Cross-Regional Consensus

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Unacceptable: Amendments forced through by a cultural or political elite over the objections of a significant portion of the republic.

Article V's high bar (two-thirds of Congress and three-fourths of states) was designed to *prevent tyranny of the majority* or urban centers dominating rural states.

Summary Statement

The Founders believed that amendments must **strengthen liberty, clarify structure, and preserve the republic**—never to empower consolidation, relativism, or tyranny under legal disguise. Legal passage does not equal moral legitimacy. An amendment that undermines the Constitution's foundation, even if ratified, is **unjust by design**.

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- ***Article I, Section 3 (Original Text)*** *– Established that U.S. Senators were to be chosen by state legislatures, reinforcing state representation in the federal structure.*
- ***17th Amendment*** *– Ratified in 1913. Changed the method of selecting Senators to direct popular elections, thereby weakening state control over the Senate and accelerating federal consolidation.*

Contemporary Reference

- **Glenn Ellmers** – Cite his Claremont essays or *The Soul of Politics*.
- **Michael Anton** – Especially *The Flight 93 Election* or related Claremont writings.
- **Randy Barnett** – *Restoring the Lost Constitution* or his essays on originalism.
- **Philip Hamburger** – *Is Administrative Law Unlawful?*
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Selected Historical Context

- **Progressive and Populist Reform Movements**
  - Support for direct election of Senators to reduce corruption and elite control
  - Key figures: William Jennings Bryan, Theodore Roosevelt
- **Senate Corruption and Political Deadlock**
  - Examples of bribery and legislative stalemates in statehouses (late 1800s–early 1900s)
  - Public perception of Senate as a tool of railroad and banking interests
- **Reform Strategies Leading to the 17th Amendment**
  - Use of non-binding "advisory" primaries in states like Oregon and Nebraska
  - Media and muckraker exposés (e.g., *Lincoln Steffens*, *Ida Tarbell*) highlighting institutional corruption
- **Ratification of the 17th Amendment (1913)**
  - Driven by moral, democratic, and populist rhetoric
  - Widely viewed as a victory for transparency and popular control at the expense of federalism

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Glossary

Administrative State
The complex of federal agencies that exercise legislative, executive, and judicial power without direct electoral accountability. Seen by reformers as unconstitutional and corrosive to the separation of powers.

Ambition Must Counteract Ambition
A principle from *Federalist No. 51*, expressing the idea that each branch of government should be structured to check the others. Critics argue this balance has collapsed under partisanship and bureaucratic cooperation.

Anti-Federalists
Critics of the Constitution who feared centralized power, loss of state sovereignty, and judicial overreach. Their writings especially *Brutus*, *Federal Farmer*, and *Cato* form the intellectual foundation for modern constitutional skepticism.

Bill of Rights
The first ten amendments to the U.S. Constitution, added to secure individual liberties and satisfy Anti-Federalist concerns. Includes protections for speech, religion, arms, due process, and federalism (see: Tenth Amendment).

Bureaucratic Capture
A process by which regulatory agencies become dominated by the interests they are supposed to regulate, or by partisan ideology. Key concern of both Realist and Reformer schools.

Chevron Deference
A Supreme Court doctrine that compels courts to defer to administrative agencies' interpretation of ambiguous statutes. Criticized by constitutionalists for transferring legislative power to the executive branch.

Civic Virtue
The personal moral character necessary for citizens to responsibly exercise liberty. Madison in *Federalist No. 55* and thinkers like Arkes and Thomas argue that without virtue, freedom cannot survive.

Conditional Republic *(n.)*
A constitutional system of government that depends for its survival not merely on legal structure, but on the sustained moral character, civic responsibility, and institutional restraint of its people. A conditional republic acknowledges that liberty cannot be preserved by mechanisms alone—that the Constitution is not self-executing, and that republican government requires virtue, vigilance, and local authority to remain viable.

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When these conditions erode—when the people become apathetic, institutions become centralized, or culture abandons moral absolutes—the system begins to hollow. Rights are no longer secured by nature but distributed by discretion. Laws still exist, but justice decays. The outward form of a republic may remain, but its substance collapses.

This term rejects both the progressive illusion that the Constitution must evolve with culture and the conservative delusion that the Constitution will save itself. It names what the Founders warned: that liberty is a conditional inheritance, and the republic stands only so long as the conditions for its survival are honored.

Constitutional Morality
The belief that law must be grounded not only in process but in transcendent moral principles (e.g., natural law, natural rights). Opposes legal positivism and arbitrary government.

Cultural Majoritarianism
A modern phenomenon in which dominant cultural factions use institutions, media, and administrative tools to enforce ideological conformity often without formal legislation.

Deep State
A term used (often pejoratively) to describe entrenched, unelected government actors who operate independently of elected officials. Associated with Realist critique of post-constitutional governance.

Direct Democracy
Political system where policy is determined directly by the people, rather than through elected representatives. The 17th Amendment is seen as a shift toward direct democracy at the expense of federal balance.

Federal Farmer
A key Anti-Federalist writer, possibly Richard Henry Lee or Melancton Smith. Warned against elite consolidation and erosion of local control.

Federalism
The constitutional division of power between federal and state governments. Intended as a safeguard against tyranny and essential to the Founders' vision of a limited republic.

Judicial Supremacy
The doctrine that the Supreme Court's interpretation of the Constitution is final and binding on all branches and levels of government. Rejected by many Anti-Federalists and contemporary Moralists.

Moral Relativism
The belief that moral truths are subjective or culturally determined. Seen by constitutionalists as incompatible with natural law, civic virtue, and Ordered Liberty.

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Natural Law
A moral order inherent in creation and accessible through reason, often invoked by the Founders and revived by contemporary Moralists like Hadley Arkes. Forms the philosophical basis for natural rights.

Populism
A political philosophy that champions the will of the people over elite institutions. Fueled the 17th Amendment and continues to influence reform movements across the spectrum.

Post-Constitutional Regime
A term used by Realists like Glenn Ellmers to describe a system in which the written Constitution remains but is no longer functionally operative due to administrative supremacy and cultural decay.

Progressivism
A reform ideology emphasizing expanded government, direct democracy, and social engineering. Played a leading role in dismantling original constitutional structures, especially via the 17th Amendment.

Reconstitutionalization
A proposed process of returning government practice to its original constitutional limits through decentralization, structural reform, and the revival of founding principles.

Reformers
Modern constitutionalists who believe legal and institutional changes can restore the republic. Advocate rollback of administrative overreach and enforcement of federalist limits.

Realists
Those who argue that the republic has already transitioned into a post-constitutional state. Call for deep cultural and philosophical restoration before structural reform can be meaningful.

Republicanism
A system of representative self-government under the rule of law, requiring civic virtue and limited power. Distinguished from both monarchy and direct democracy.

Seventeenth Amendment
Ratified in 1913, it transferred the election of Senators from state legislatures to the popular vote. Critics argue it removed a vital constitutional check and accelerated federal centralization.

Tenth Amendment
States that all powers not delegated to the federal government are reserved to the states or the people. A cornerstone of constitutional federalism and the anti-centralization argument.

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Virtue

A recurring principle in both Founding-era and modern thought: the moral quality required to sustain liberty. Without it, even the best-structured constitution will fail.

Jeff Pierson

From the Author

This work, *Saving the Republic: How the Founders Warned, the Constitution Weakened, and the People Must Respond*, is an original compilation of historical analysis, political commentary, and constitutional reflection authored by **Jeff A. Pierson**.

Quotations from historical documents such as *The Federalist Papers*, *The Anti-Federalist Papers*, and public statements by contemporary legal scholars are used for educational and analytical purposes under the doctrine of fair use.

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Metadata

Description

Saving the Republic is an urgent constitutional analysis and civic appeal that blends historical insight with contemporary critique. Author Jeff A. Pierson explores the foundational warnings of the Founders—especially those voiced by the Anti-Federalists—about the fragility of the American system. Through a deep examination of the Federalist and Anti-Federalist Papers, modern judicial trends, and the structural damage inflicted by the 17th Amendment, Pierson outlines how America's constitutional order has decayed. He challenges both progressive fluidity and conservative romanticism, arguing instead that the Republic is conditional—its survival depends on virtue, local authority, and moral restraint. This work offers a bold restoration blueprint rooted in natural law, federalism, and cultural renewal.

Abstract

This work contends that the American Republic was never self-executing but dependent on the continued virtue and civic responsibility of its people. Drawing from the Federalist and Anti-Federalist Papers, *Saving the Republic* examines how structural safeguards have eroded, particularly through the centralization of power and the ratification of the 17th Amendment. It highlights prophetic warnings by the Anti-Federalists regarding federal overreach, judicial supremacy, and the collapse of state sovereignty. Contrasting the optimistic structure-driven Federalist model with the morally grounded Anti-Federalist vision, the author synthesizes both perspectives into a call for a "moral-structural" recovery. The book critiques modern legal positivism, the administrative state, and cultural relativism, arguing that constitutional fidelity requires not just institutional reform but moral awakening. Restoration, the author argues, can only be achieved through legal decentralization, cultural reformation, and local empowerment. This is not merely a policy prescription—it is a civic summons to renew the conditions that liberty requires.

Keywords

Constitution, Federalism, Anti-Federalists, Founding Fathers, 17th Amendment, Natural Law, Judicial Supremacy, Administrative State, Republican Government, Civic Virtue, Ordered Liberty, Structural Reform, Glenn Ellmers, Clarence Thomas, Michael Anton, Moral Foundations, Federalist Papers, Restoration, Decentralization, Post-Constitutionalism, Cultural Decline, Civic Responsibility, Moral Relativism, Legal Positivism, Constitutional Crisis, Local Sovereignty, Political Philosophy, Liberty, Self-Government.

Purpose (Full Statement)

Jeff Pierson

The purpose of this work is to diagnose the structural, moral, and civic decay of the American constitutional order, expose the consequences of abandoning the Founders' conditions for liberty, and propose a principled path to restoration grounded in natural law, local authority, and civic virtue. It rejects the modern illusions that constitutional order can survive either without fixed principles or without moral restraint. Instead, it calls the American people to remember, restore, and resist—to remember the foundational warnings of the Federalists and Anti-Federalists, to restore the moral and federal conditions that make liberty sustainable, and to resist the bureaucratic, judicial, and cultural forces that have hollowed out the Constitution's meaning.

In short:

To awaken, convict, and equip Americans to restore the Republic on its original moral and constitutional terms—before its form remains but its freedom disappears.

Jeff Pierson